

1052
No. 2905

IN THE
UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE NINTH CIRCUIT

CLALLAM LUMBER COMPANY, a Corporation,
Plaintiff,

Appellant

VS.

CLALLAM COUNTY, a Municipal Corporation, and
CLIFFORD L. BABCOCK, Treasurer, De-
fendants,

Appellees

RECORD ON APPEAL

(In Four Volumes)

Vol. 1—Pages 1 to 86

ON APPEAL FROM THE UNITED STATES DIS-
TRICT COURT FOR THE WESTERN
DISTRICT OF WASHINGTON, NORTHERN
DIVISION.

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASH-
INGTON, NORTHERN DIVISION

IN EQUITY—NO. 36

CLALLAM LUMBER COMPANY, a corporation,
Plaintiff,

vs.

CLALLAM COUNTY a municipal corporation, and
Clifford L. Babcock, Treasurer,

Defendants.

NAMES AND ADDRESSES OF COUNSEL

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Clallam Lumber Company
C. H. Ruddock and T. H. McCarthy

STATEMENT

Time of Commencement of Suit, May 29, 1914.

Names of Parties to suit: Clallam Lumber Company, Plaintiff and Appellant; Clallam County, a municipal corporation, and Clifford L. Babcock, Treasurer, Defendants and Appellees.

Date of filing respective pleadings:

Plaintiff's bill of complaint filed May 29, 1914.

Defendant's motion to dismiss plaintiff's bill of complaint filed June 18, 1914.

Memorandum decision denying motion to dismiss, filed October 26, 1914.

Order denying motion to dismiss, filed October 30, 1914.

Defendants' amended answer to amended complaint, filed January 18, 1915.

Stipulation of parties with reference to complaint, amended complaint, amended answer and second amended answer, filed November 6, 1916.

Depositions of William Garlick, R. W. Schumacher, J. P. Christensen, J. A. Adams and Charles F. Seal, taken under stipulation of parties, filed August 30, 1915.

On September 1, 1915, before the Hon. E. E. Cushman, Judge, this cause in conjunction with Equity Cause No. 37, entitled Charles H. Ruddock and Timothy H. McCarthy Plaintiffs vs. Clallam County, a municipal corporation and Clifford L. Babcock, Treasurer, defendants; Equity Cause No. 56, entitled Clallam Lumber Company, plaintiff vs. Clallam County, a municipal corporation and Herbert H. Wood, Treasurer, defendants, and Equity Cause No. 57, Charles H. Ruddock and Timothy H. McCarthy, plaintiffs vs. Clallam County, a municipal corporation and Herbert H. Wood, Treasurer, defendants, the same being consolidated for trial, were tried upon the testimony of witnesses produced before the court, and upon exhibits offered in evidence by the respective parties, which have been returned and filed herein, and upon the depositions

taken under stipulation of the parties and exhibits annexed thereto.

Counsel for the respective parties appeared and argued said causes in open court and thereafter submitted written briefs to said court.

Thereafter on January 22, 1916, the Judge before whom said causes were tried and heard made and filed his memorandum decision.

Decree was made and entered and filed in said cause on February 3, 1916.

Plaintiff made and filed petition for rehearing March 3, 1916.

Argument had on petition to rehear before Hon. E. E. Cushman, Judge, and taken under advisement by him April 18, 1916.

Memorandum decision on petition to rehear rendered and filed by Hon. E. E. Cushman, Judge, May 11, 1916.

Final order denying petition for rehearing made and filed May 15, 1916.

Journal entry of said court adjourning the November term and opening the May term of court, May 2, 1916.

Assignment of errors, petition for appeal, allowance of appeal, bond on appeal with approval thereof, filed October 27, 1916.

Citation on appeal issued, served and filed October 27, 1916.

Order of court, E. E. Cushman, Judge, enlarging time to docket case on appeal and return of citation made and entered November 2, 1916.

IN THE DISTRICT COURT OF THE UNITED
STATES FOR THE WESTERN DISTRICT OF
WASHINGTON, NORTHERN DIVISION.

CLALLAM LUMBER COMPANY, a corporation,
Plaintiff,

vs.

CLALLAM COUNTY, a municipal corporation, and
CLIFFORD L. BABCOCK, Treasurer,

BILL OF COMPLAINT.

TO THE JUDGE OF THE DISTRICT COURT
OF THE UNITED STATES FOR THE WESTERN
DISTRICT OF WASHINGTON, NORTHERN DI-
VISION, sitting in equity:

Your orator, Clallam Lumber Company, brings this its bill of complaint against Clallam County, a municipal corporation, and Clifford L. Babcock, treasurer of said county, and humbly complaining, respectfully shows unto your honors as follows:

I.

Your orator is and for more than three years last past has been a corporation duly organized and existing under the laws of the State of Michigan, and having its principal office for the transaction of business at Grand Rapids, in said state, and authorized as a foreign corporation to do business in the state of Washington. It has filed and recorded in the office of the Secretary of State of Washington a certified copy of its articles of incorporation, duly certified by the Secretary of State of the State of Michigan, who is the custodian of the same according to the laws of Michigan, and your orator has constituted and appointed an agent in the State of Washington, as required by the laws of that State, who resides at Seattle, where the principal business of the corporation in Washington is to be carried on, which appointment has been duly filed for record in the office of the Secretary of State of the State of Washington, and your orator has since had and kept such resident agent in Washington duly empowered as required by the statutes of that State, and has, prior to the commencement of this suit, paid to the State of Washington its last annual license fee due to said State, and has in all respects complied with the laws of the State of Washington relative to the transaction of business by foreign corporations in that state. Your orator by its articles is duly authorized, among other things, to carry on a lumbering business and to own and hold timber lands. At all times herein mentioned said Clallam Lumber Company was, and it still is, a citizen of the

State of Michigan and a resident and inhabitant of the city of Grand Rapids, in that state.

II.

At all times herein mentioned the defendant County of Clallam was, and it still is, a County of the State of Washington, situate in the Northern Division of the Western District thereof, and as such a municipal corporation under the Constitution and laws of said state, and a citizen of the State of Washington.

III.

At all times herein mentioned the defendant Clifford L. Babcock was, and he still is, the duly elected, qualified and acting Treasurer of said County of Clallam, and a citizen of said State of Washington, and a resident and inhabitant of Clallam County, in the Northern Division of the Western District thereof.

IV.

The matter in controversy in this suit exceeds, exclusive of interest and costs, the sum or value of Three Thousand (\$3000) Dollars, and is, to wit, approximately the sum of twenty Thousand (\$20,000) Dollars.

V.

Your orator is the owner of certain timber lands situate in said Clallam County, a list of which, containing the correct description thereof, is hereto attached and marked Exhibit "A" and made a part hereof. Said lands contain, in the aggregate 41,372.8 acres of land, according to Government survey, be the same more or less. Your orator has been the owner of said lands for four years, or thereabouts, last past, save that a few descriptions, containing in the aggregate but a small acreage, were acquired within said period of four years, but with the exception of one parcel containing 120 acres, the same were acquired more than one year ago. The lands so owned by your orator do not constitute one solid body, but lie either in contiguous parcels or in parcels near to each other in various townships in the interior of Clallam County, along the valleys of the Solduc and Calawa Rivers, and the benches and ridges between said rivers or on

either side thereof, stretching from a short distance west of Crescent Lake upon the East in Township 30 North, Range 10 West, in a Westerly and Southerly direction toward the Pacific Ocean, the Westerly portions of said lands being situate near the Easterly edge of Townships 28 and 29 North, Range 14 West.

VI.

For the purpose of assessment for taxation and as a basis therefor, the assessing officers of Clallam County have from time to time, within the period of five or six years last past, caused timber lands in said county to be cruised and the cruises and estimates thus made to be adopted by the county. Most of the timber lands in the county owned by private parties, as distinguished from Government lands, have now been cruised, and all the lands owned by your orator have been so cruised, and so far as respects timber lands within the county upon which cruises have thus been made, it is claimed by the assessing officers that the same have been assessed upon the basis of the cruises thus obtained. The assessments made by the assessing officers of the County have been made, however, according to certain zones or districts which the assessing officers have arbitrarily, unreasonably and unlawfully laid off and determined without reference to and in disregard of the true or fair value in money of timber on the lands within such zones or districts respectively.

VII.

One of these zones thus arbitrarily laid off abuts immediately upon the Straits of Fuca and extends East and West along the Straits for a distance of approximately sixty-five miles, and extends back from the Straits into the interior distances varying approximately from three to eight miles. Within this zone are included those timber lands which, of all timber lands within the county, are of the greatest value, not merely because the timber thereon is of excellent quality, but particularly because of the location thereof, the same being situated immediately upon tide-water or adjacent thereto, and thus rendered immediately

accessible to the markets of the world. Within this zone the timber is valued for the year 1913, by the assessing officers of Clallam County, as follows: Fir, spruce and cedar at 80c per thousand feet; hemlock at 40c per thousand feet. In both this and the other zones, as your orator is informed and believes, larch (if any there is) is valued at the same price as hemlock; and in this and all other zones, in addition to the value placed by the assessing officers on the timber, there was for the year 1913, placed on the lands themselves a value of \$1. per acre, and the same, in the case of your orator's lands, was done arbitrarily, unreasonably and unlawfully and without any reference to the actual value thereof. Many of the lands owned by your orator are of no value whatsoever, independent of the timber standing or being thereon.

VIII.

Another zone thus arbitrarily, unreasonably and unlawfully set off by the assessing officers lies in the Western part of Clallam County. No part thereof lies nearer to the Straits than approximately four to six miles, and no lands within this zone owned by your orator lie nearer to the Straits than approximately nine miles and the great body of the lands owned by your orator within this zone lies more distant therefrom. Said zone or district is irregular in form and extends Southerly until it reaches the line of Jefferson County, a distance of approximately 30 miles from the Straits of Fuca. There are no harbors upon the Pacific Ocean within the County of Clallam or Jefferson at or through which the timber on the lands of your orator might or could be brought to market. Within the zone or district described in this paragraph there is a large acreage of land and upon the timber lands within this zone the assessing officers of Clallam County put for the year 1913, for the purposes of taxation, the following values, to wit: Upon fir, spruce and cedar timber a valuation of 70c per thousand feet, and upon hemlock timber a valuation of 35c per thousand feet. In this zone your orator owns lands approximately 18,707.84 acres in extent and the timber

upon the same, according to the cruise made by the County of Clallam, amounts, in the aggregate, to approximately 1,420,241½ M feet of all sorts, as more fully appears from schedule attached hereto marked Exhibit B and made a part hereof. The value of the lands of your orator within this zone, as fixed and determined by the assessing officers of Clallam County for the year 1913, for the purposes of taxation, is \$814,922.50. All the lands owned by your orator within this zone or the other zones or districts set off by said assessing officers are separated from the Straits of Fuca by a range of mountains.

IX.

Another zone thus arbitrarily, unreasonably and unlawfully set off by the assessing officers includes Lake Crescent and certain lands contiguous thereto, and a township, or thereabouts of lands lying West of Lake Crescent. Upon the timber lands within this zone or district the assessing officers of Clallam County put, for the year 1913, for the purposes of taxation, the following values, to wit: Upon the fir, spruce and cedar timber a valuation of 70c per thousand feet, and upon hemlock timber a valuation of 35c per thousand feet. In this zone your orator owns lands approximately 3207 acres in extent, and the timber upon the same, according to the cruise made by the County of Clallam amounts, in the aggregate to approximately 136,856¾ M feet of all sorts, as more fully appears from a schedule hereto attached as Exhibit C and made a part hereof. The value of the lands of your orator within this zone, as fixed and determined by the assessing officers of Clallam County for the year 1913 for purposes of taxation is \$88,730. None of the lands of your orator within this zone lie nearer to the Straits than six miles, and between these lands and the Straits there is a high and practically impassable mountain range occupying the North portion of Township 30 North, Range 10 West, which the Government has never surveyed.

X.

Another zone thus arbitrarily, unreasonably and

unlawfully set off by the assessing officers lies in the Southern Central part of said County, the North line thereof being approximately eight to fifteen miles from the Straits and the zone extending upon the South to the line of Jefferson County some twenty-seven miles distant from the Straits. Upon the timber lands within this zone or district the assessing officers of Clallam County put, for the year 1913, for the purposes of taxation, the following values, to-wit: Upon fir, spruce and cedar timber a valuation of 60c per thousand feet, and upon hemlock timber a valuation of 30c per thousand feet, and upon this zone or district your orator owns lands approximately 18,580.36 acres in extent and the timber upon the same, according to the cruise made by the County of Clallam, amounts in the aggregate to approximately 1,110,302 $\frac{1}{4}$ M feet of all sorts, as more fully appears from a schedule attached hereto marked Exhibit "D" and made a part hereof. The value of the lands of your orator within this zone, as fixed and determined by the assessing officers of Clallam County for the year 1913, for purposes of taxation is \$588,350.00. None of the lands of your orator within this zone lie nearer to the Straits than eight miles, and some of the lands owned by your orator in this zone are twenty-one miles distant from the Straits. The lands owned by your orator in this zone or district extend to the edge of the unsurveyed lands in the main Olympic Mountains.

XI.

Another zone thus arbitrarily, unreasonably and unlawfully set off by the assessing officers is situate north of the Solduc Valley and on the Westerly slope of the aforesaid range of mountains which separates said valley and all the lands of your orator from the Straits. This zone is composed in great part of rough and mountainous lands and there is comparatively a considerable quantity of burnt timber within the same. Upon the timber lands within this zone or district the assessing officers of Clallam County put for the year 1913, for the purposes of taxation, the following values, to-wit: Upon fir, spruce and cedar timber a valuation

of 40c per thousand feet, and upon hemlock timber a valuation of 20c per thousand feet. In this zone your orator owns lands approximately 798½ acres in extent and the timber upon the same, according to the cruise made by the County of Clallam, amounts in the aggregate, approximately to 64,738½ M feet of all sorts, as more fully appears from a schedule attached hereto, marked Exhibit "E" and made a part hereof. The value of the lands of your orator within this zone, as fixed and determined by the assessing officers of Clallam County for the year 1913, for the purposes of taxation, is \$21,745. None of the lands of your orator within this zone lie nearer to the Straits than eight miles.

XII.

Another zone thus arbitrarily, unreasonably and unlawfully set off by the assessing officers lies along the line of Jefferson County in that portion of Clallam County practically midway between the Easterly and Westerly ends thereof, and the same extends from the South line of Jefferson County North until it touches the North line of Township 29. This zone contains only a small acreage of lands owned by private parties, bordering upon the unsurveyed Government lands situate in the forest reserve. Upon the timber lands within this zone the assessing officers of Clallam County put, for the year 1913, for the purposes of taxation the following values, to-wit: Upon fir, spruce and cedar timber a valuation of 40c per thousand feet, and upon hemlock timber a valuation of 20c per thousand feet. In this zone your orator owns lands approximately eighty acres in extent and the timber upon the same, according to the cruise made by the County of Clallam amounts, in the aggregate, to approximately 4,052 M feet of all sorts, as more fully appears from a schedule attached hereto, marked Exhibit "F" and made a part hereof. The value of the lands of your orator within this zone, as fixed and determined by the assessing officers of Clallam County for the year 1913, for the purposes of taxation, is \$2,495. The lands of your orator within this zone lie approximately nine miles from the Straits. In addition to the assessed

valuations placed on the timber on the lands owned by your orator, as hereinbefore recited, the poles and ties shown by the cruise so made by the County of Clallam are likewise assessed against your orator upon the following basis, to-wit: Poles ten cents each and ties two cents each.

XIII.

It is and has been during all the times in this bill alleged, the custom practiced throughout the State of Washington by assessors and taxing boards to assess property at less than its actual and full value, the custom being in a large part of the counties of the state to assess said property at from 35 to 50 per cent of its true value, which custom has not only been pursued by the various county assessors but has been recognized and acquiesced in by the State Board of Equalization. The assessor of said County of Clallam gives out and pretends that for the year 1913 he assessed taxable property within said County of Clallam at and upon the basis of fifty-three per cent of the true and fair value thereof in money; and the members of the County Board of Equalization give out and pretend that they equalized and approved the assessments upon the taxable property within said county for such year at and upon the same basis. But your orator avers that such claims and pretenses are untrue in fact and that the interior timber lands in said county, and in particular the lands owned by your orator, were and are valued for the purposes of taxation in the year 1913 at sums greatly in excess of fifty-three per cent of the true and fair value thereof in money; that the other properties, real and personal, in said county were valued at sums much less than fifty-three per cent of the true and fair value thereof in money; and that your orator was grossly and intentionally discriminated against by the assessing officers of Clallam County in the matter of assessment and taxation upon its said lands for the year 1913.

XIV.

The timber upon the lands of your orator, as shown by the cruise thus made by the County of Clallam,

amount, in the aggregate, to approximately 1,420,-241½ M feet of all sorts, as more fully appears from a schedule attached hereto, marked Exhibit "G" and made a part hereof. The assessments upon the lands of your orator for the year 1913 were made upon the basis of said cruise, and your orator avers that the timber upon its lands was greatly overvalued by the assessing officers of Clallam County in the valuations put thereon by them for the purposes of taxation in the year 1913. The valuations thus placed by the assessing officers of Clallam County upon the lands of your orator, described in said Exhibit "—" hereto attached, for the purposes of taxation for the year 1913, amount in the aggregate to \$1,711,505. Your orator avers that the true and fair value in money of said lands does not exceed the sum of \$2,050,000 and did not exceed that sum in the year 1913, when said assessment was made by the assessing officers of Clallam County. Such assessment was therefore made upon the basis of approximately 83½ per cent of the true and fair value thereof in money. No property in said Clallam County, save the timber lands owned by your orator, and perhaps certain other timber lands situate like your orator's lands in the interior of said County, was assessed in said year 1913 at so great a proportion of the true and fair value thereof in money. Such assessment upon the lands of your orator at so large a percentage of the true and fair value thereof in money was not accidental or unintentional on the part of said assessing officers of Clallam County, but was intentional and wilful, and as your orator avers, was in pursuance of a concerted effort and corrupt and unlawful combination and conspiracy between the assessor of Clallam County and the other members of the County Board of Equalization of said County of Clallam. Some of the facts relating to the nature of said combination and conspiracy and to the unlawful assessment so made are hereinafter set forth.

XV.

The timber lands in the County of Clallam are

situate for the most part in the Westerly end thereof, the timbered portion of the county owned by private parties and subject to assessment being situate almost entirely within that portion of the county lying West of range eight and extending from thence practically to the Pacific Ocean. This territory is sparsely settled, containing only a few hundred inhabitants at the most and those settled for the greater part at Forks and Quillayute Prairies (so called). Comparatively few of the voters of the county, therefore, reside in the West end district. The county seat of the County is the city of Port Angeles in the middle district, said city containing a population of approximately 5000 in number. In the East district (so called) are prosperous farming communities, the same being well settled, particularly in the vicinity of Sequim and Dungeness, the population in said East district being approximately 1500 in number. The voting power of the County is, therefore, in the East and middle Commissioner's districts, and particularly in the Easterly portion of the county extending from and including Port Angeles to the East County line, the voters in the West district being so few that they have little voice in the County affairs. The lands in the West end of the county, being almost entirely timbered lands, except at the small prairies of Forks and Quillayute, are incapable at the present time of supporting any considerable population. These lands are mostly owned by non-residents of the County.

XVI.

The assessing officers of the County of Clallam (with the exception of one county commissioner from the West district) are elected by the votes of those resident in the middle and East district, because of the preponderance of votes in those districts, and for the purpose, as your orator avers, of ingratiating themselves with their constituents and serving their own individual and selfish ends, the said assessing officers of Clallam County have wrongfully, unlawfully and corruptly combined and concerted together with the intent and purpose to increase the assessments upon

the timber lands in the West end of the county beyond their proportion of the true and fair value of the property within the county and to lower and depreciate the assessments upon the property in the City of Port Angeles, and contiguous thereto, or in that vicinity, the farming lands in the East end of the county and other properties within the county, and especially in the middle and East districts thereof, and to assess the same upon a basis and at valuations far below their proportion of the true and fair value of the property subject to assessment in Clallam County. In pursuance of this combination and conspiracy it has been the custom of the assessor of the County of Clallam to consult and advise with the other members of the County Board of Equalization, or with all those resident in the middle and East districts, in making his assessment rolls, and that custom, as your orator is informed and believes, was followed by the assessor in making his assessment rolls for 1912 and 1913. The assessment roll, as prepared by the assessor, does not, therefore, and in each of the years above mentioned did not, represent the judgment of the assessor, but was and is the result of the combination and conspiracy with other members of said County Board of Equalization, and this roll, thus prepared by the assessing officer, is approved, as matter of course, in all substantial respects, and particularly as relates to assessments of timber lands, by the County Board of Equalization when it meets to review the same. As a result, no fair hearing, as contemplated by statute, is possible to be had on appeal to said Board. And your orator avers that this practice has been followed in said Clallam County for several years continuously past, and that, when your orator appealed to said Board in the year 1910, its attorney addressed said Board at the opening of its session and was told in substance by one of the members of said Board, speaking in its behalf, that it was needless to introduce any evidence of values of timber lands, for no such evidence would change the views of said Board.

XVII.

In the years 1912 and 1913 and prior thereto gross discriminations were practiced by the assessing officers of Clallam County against your orator and other owners of timber lands in the interior of the county and in favor of other owners of property subject to taxation in Clallam County. These discriminations were aimed in particular at your orator and other owners of interior timber for the reason that they own large bodies of lands in said county but control no votes and exercise no political influence therein, and the size of their holdings has constituted an inducement to said assessing officers to place a large and greatly disproportionate share of the taxes levied within the county upon your orator and such other owners of interior timber, and thereby relieve other property owners within the county of some portion of that burden of taxation which, under the Constitution and laws of Washington, equitably and lawfully falls upon them. These discriminations thus practiced against your orator have been and are with the intent and purpose to favor, at the expense of your orator and other owners of interior timber lands, all owners of property at Port Angeles and in the vicinity thereof, all owners of property in the East district (so called), all owners of personal property throughout the country, and likewise the owners of timber lands immediately upon the Straits.

XVIII.

Your orator has caused diligent and careful examination to be made of the assessment rolls of Clallam County for the years 1912 and 1913, and a like examination of property values within the county, and as a result thereof now finds that the lands and other properties situate at Port Angeles and subject to taxation are valued upon said assessment rolls as equalized for such years at not to exceed 10 to 20 per cent of their true and fair value in money. The County Board of Equalization of Clallam County is, and for the years 1912 and 1913 was, composed of five members of whom three are the county commissioners and the other two

are the County Treasurer and County Assessor respectively. Of said members of the Board one County Commissioner, representing the middle district, resides at Port Angeles and is Chairman of the Board. The County Treasurer and County Assessor also reside at Port Angeles. A fourth member resides in the East district, and the remaining member in the West district. Three out of the five members of the County Board of Equalization are, therefore, residents of Port Angeles and the major part of the population of the county is also found at Port Angeles. These members of the Board resident at Port Angeles are themselves owners of property at Port Angeles. In order to favor themselves and their constituents at Port Angeles aforesaid, the three members resident at Port Angeles have combined and conspired with the East end commissioner to put low valuations upon property at Port Angeles and vicinity and high and unequal valuations upon the timber lands situate in the West end of the county and in particular upon the timber lands of your orator and other owners of timber lands in the interior of Clallam County.

XIX.

As the result of diligent and careful examination made by your orator of the assessment rolls of Clallam County for the years 1912 and 1913, and a like examination of the property values within the county, your orator finds that the farming lands and other properties situate in the East end and subject to taxation are valued upon said tax rolls as equalized for such years at not to exceed 25% to 30% of their true and fair value in money.

XX.

As the result of diligent and careful examination made by your orator of the assessment rolls of Clallam County for the years 1912 and 1913, and a like examination of the property values within the county, your orator finds that personal property within said county, consisting of stocks and goods, wares and merchandise at Port Angeles and other personal properties situate at Port Angeles and elsewhere within

the county, are valued by the assessing officers of Clallam County for the year 1913 at not to exceed 10% to 15% of their true and fair value in money.

XXI.

The lands owned by your orator lie, as hereinbefore stated, in the valleys of the Solduc and Calawa rivers and upon the benches and ridges between the same or adjacent thereto. These lands are at present wholly destitute of facilities for transportation and it is impossible to bring the timber thereon into the market. In order to bring said timber to market it is necessary that facilities be provided for transportation to Grays Harbor on the South or to the Straits of Fuca on the North. Grays Harbor is far distant, no railroad from that direction extending farther North than Moclips, a distance of more than sixty miles from the lands of your orator. Few of the lands of your orator are less than twelve miles from the Straits and most of them lie a still greater distance therefrom, and all of the lands of your orator are cut off from the Straits by the range of mountains running East and West through the County of Clallam. It is, therefore, impossible to bring the timber from your orator's lands to market except by transporting the logs or lumber cut therefrom across this range of mountains. This cannot be accomplished except by the construction of a railroad at great expense. This expense is beyond any present means at the command of your orator and is likewise an expense which, in the present condition of the lumber market, or in any conditions of the lumber market which have at any time heretofore prevailed on the Pacific Coast, is prohibitive. This fact has a direct and important bearing on the present value of your orator's lands. Upon the Straits of Fuca, however, and immediately adjoining tidewater, there lie fine bodies of fir, spruce, cedar and hemlock timber, which can readily be logged to the Straits at the present time. Extensive logging operations have for many years been carried on and are now being carried on in this portion of Clallam County lying immediately upon the Straits. This Straits tim-

ber (so called) is in the zone or district arbitrarily, unreasonably and unlawfully laid off by the assessing officers as recited in paragraph VII, in which zone or district the timber is valued, for the year 1913, by the assessing officers of Clallam County, as follows: Fir, spruce and cedar at 80c per thousand feet, and hemlock at 40c per thousand feet; whereas upon the lands of your orator which lie within the interior of the County and separated from tide-water by a range of mountains, the timber is assessed at slightly lower figures, being for the most part 70c or 60c for fir, spruce and cedar, and 35c or 30c for hemlock. Your orator avers that the true and fair value in money of said timber so lying upon tide-water or adjacent thereto is at least twice the true and fair value in money of the timber on your orator's lands.

XXII.

The City of Port Angeles, where the majority of the voters of Clallam County reside, is situate at tide-water and upon a harbor which it is the wish of the inhabitants of said city may become the seat of a considerable commerce. To this end there is an ardent desire on the part of the inhabitants of Port Angeles that the timber owners of Clallam County build mills at Port Angeles, construct railroads into the interior of the County, transport logs from the interior of the County to Port Angeles, and saw the same into lumber at that city, thereby adding to the growth and development of Port Angeles as respects both industries and population. Various of the inhabitants of Port Angeles, including the assessor, have complained to your orator that, because it failed to build sawmills and railroads or cause the same to be done, it had pursued and was pursuing a policy hostile to the true interests of the county and especially of Port Angeles, and that such interests would be promoted only by building sawmills and railroads; and your orator avers that, as part of the combination and conspiracy aforesaid, it is the purpose of the assessing officers of Clallam County, representing as they believe, the sentiment existing among the voters at Port Angeles, to assess the timber

lands in the West end of Clallam County at exorbitant sums, as a means of compelling the erection of mills at Port Angeles, the construction of railroads into the interior of the county, and the commencement and carrying on of logging and lumbering operations within the county. In particular it has been and is a part of said combination and conspiracy to compel your orator, as one of the large timber land owners of Clallam County, to erect such mills and construct such railroad and commence and conduct lumbering operations; and through influential citizens of Port Angeles your orator has been assured that, if it would begin to operate its timber and employ a considerable number of men, it might rely that it would thenceforth be fairly and equitably treated as respects taxation. Your orator avers that the majority of the members of the Board of Equalization are themselves the owners of real property at Port Angeles and are, therefore, personally interested in its rapid growth and development, and desire, for their individual aggrandizement, to compel your orator to erect mills and construct railroads and commence and conduct lumbering operations, despite the fact that no such operations can be conducted with profit in the market conditions now prevailing.

XXIII.

Your orator avers that the unequal, discriminating and unlawful assessments which are herein complained of are not accidental or unintentional on the part of said assessing officers of Clallam County, but that the same are the direct and immediate result of a corrupt and unlawful intent on the part of the County Assessor for the County of Clallam, and the members of the County Board of Equalization of said County, or the majority of said members, to discriminate against the timber land owners in the West end of said County, and particularly against your orator in the matter of taxation, and in favor of all owners of property in the middle and East districts of the county, and unjustly and illegally to overvalue the property of your orator for purposes of taxation and to undervalue, for the

purposes of taxation, other lands and properties within said County of Clallam including all property situate in Port Angeles or the vicinity thereof, all farming properties in the East end of said County of Clallam, and all other properties, real or personal, in the middle and East districts, as well also as certain other timber lands in said county situate within the zone lying immediately upon the Straits, as set forth in paragraph VII of this bill.

XXIV.

Your orator avers that by Section 9,112 of Volume 3 of Remington & Ballinger's Annotated Codes and Statutes of Washington, it is provided that all property shall be assessed at not to exceed fifty per cent of its true and fair value in money; that the true and fair value in money of the lands owned by your orator and particularly described in Exhibit "A" hereto attached, with the timber standing thereon, does not exceed the sum of \$2,050,000, and did not exceed that sum when the assessments of 1912 and 1913 were made; that under said statute of the State of Washington any assessment of said lands for purposes of taxation at a sum greater than \$1,025,000 is unjust, illegal and void; that the true and fair value in money of the lands so owned by your orator is known to the assessor of said county of Clallam, as well as to the members of the County Board of Equalization thereof, and was so known at the time of the making of assessment and at the time of the approval thereof by said Board of Equalization; but that, wholly disregarding the duty thus placed upon them by the law to assess said lands at no greater sum than one-half their true and fair value in money, the said assessor and the said Board of Equalization fraudulently and unlawfully caused the same to be assessed at a sum exceeding by at least \$686,505, the 50% of the true and fair value in money of said lands, contrary to the provisions of the statute above specified, and that such overassessment was made and approved by said assessing officers with the fraudulent and corrupt intent of placing upon your orator the burden of an excessive

and unjust proportion of the taxes levied and collected within said County of Clallam for said year. The taxes levied for the year 1913 by the officers of Clallam County upon the lands owned by your orator, and described in Exhibit "A" amount, in the aggregate, to the sum of \$50,049.59 as shown by the tax roll of said county for that year, whereas had such taxes been levied upon the true and fair value in money of the aforesaid lands, the same would not have exceeded the sum of Thirty Thousand (\$30,000) Dollars; and your orator avers that by the fraudulent and unlawful practices of the assessing officers of Clallam County, of which complaint is herein made, there were and are unlawfully, unjustly and fraudulently imposed upon its lands described in Exhibit "A" taxes for the year 1913 to the amount of at least \$20,049.59, in excess of all taxes which might or could equitably or lawfully be imposed thereon.

XXV.

The overvaluation of the lands of your orator and other owners of interior lumber, and the undervaluation of other property in said county, of which complaint is herein made, are in pursuance of a definite, settled policy, design and plan systematically adopted by said assessing officers and practiced for several years last past. Your orator avers that the assessment of the lands of your orator and other owners of timber lands in the interior of Clallam County at sums which are proportionately much higher than the assessments imposed upon the other properties, real and personal, in said county, is and results in an actual fraud upon your orator, and the said plan so resulting in such fraud upon your orator was and is arbitrarily and systematically adopted and carried out by the assessor and members of the County Board of Equalization and by the defendants herein.

XXVI.

The assessments upon the lands of your orator were made by the Assessor of said County for the year 1912 at the high, excessive, unlawful and illegal rates herein specified, and upon the unlawful and

fraudulent basis herein mentioned. Thereafter the County Board of Equalization met ostensibly to consider and review the assessment roll. But such review was ostensible, specious and fraudulent in character, the members of the Board having already combined and conspired with said Assessor to make the assessments upon the basis and at the amounts hereinbefore mentioned. Your orator, through its managing officer and attorneys, appeared before the County Board of Equalization when the same was sitting at its regular session in 1912 and protested against said excessive, unjust and unlawful assessments upon its lands. Such protest was both oral and in writing. The protests so made by your orator, both oral and in writing, were arbitrarily disregarded and overruled by said Board, and the petition so filed by your orator to equalize its assessments and put the assessments on the property of your orator on the same basis as the assessments upon other property in said County, was arbitrarily denied.

XXVII.

The assessments upon the lands of your orator were made by the Assessor of said County for the year 1913, at the high, excessive, unlawful and illegal amounts and rates herein specified, and upon the unlawful and fraudulent basis herein mentioned. Thereafter the County Board of Equalization met ostensibly to consider and review the assessment roll, but such review was ostensible, specious and fraudulent in character, the members of the Board having already combined and conspired with said Assessor to make the assessments upon the basis and at the amounts hereinbefore mentioned. Your orator, through its attorney, appeared before the County Board of Equalization when the same was sitting at its regular session in 1913 and protested against said excessive, unjust and unlawful assessments upon its lands. The protests so made, both orally and in writing, were arbitrarily disregarded and overruled by said Board, and the petition of your orator to equalize its assessments and put the same on the same basis as the assessments

upon other properties in said county was arbitrarily and unlawfully denied.

XXVIII.

Thereafter the taxes were extended against the lands of your orator upon the tax rolls and books of said County, the same being so extended upon the basis of the high, excessive, unlawful and fraudulent assessments upon the lands of your orator, of which complaint is herein made. Said tax rolls and books were delivered to the defendant Clifford L. Babcock, Treasurer of said County, and said Clifford L. Babcock, as such Treasurer, has demanded payment of said illegal, fraudulent and arbitrary taxes assessed and levied in manner as hereinbefore specified. The taxes so demanded by said Clifford L. Babcock, Treasurer of said County, amount in the aggregate to the sum of \$50,049.59, and said Treasurer, unless restrained by the order of this Court will sell the property of your orator to satisfy the taxes thus fraudulently and unlawfully assessed and levied.

XXVIII A.

That prior to the assessment and levy of the taxes complained of herein this complainant under instruments of conveyance, conveying to it all of the lands hereinabove described, was in actual possession and occupation of a portion of said lands for the whole; otherwise said lands are vacant and unoccupied.

XXVIII B.

That it is the duty of the Treasurer of Clallam County under the law of the state, having received the moneys so taxed, to pay the sum so received in the proportions designated in his tax books to the various road and bridge funds, to the city of Port Angeles and to the State of Washington, and to various funds for which said taxes are collected and distributed under the law, and to other officers and authorities entitled to receive the same, and if the plaintiff instituted suit to recover back the tax so paid to the town of Port Angeles, or county, or road, or school districts, he would be obliged to bring a separate suit against each one of the taxing bodies receiving its propor-

tionate share of the taxes, thereby necessitating a multiplicity of suits, and the proportion of the tax which would go to the state of Washington could not be collected back by any legal proceeding whatever; and if repayment could be compelled from the town of Port Angeles and other taxing bodies, such repayment would not cover the costs, including commissions deducted for the collection of the tax, and penalties and complainant would be subject to great and irreparable injury for which there is not a complete, adequate or any remedy at law.

That the treasurer of Clallam County, upon the delinquency of said taxes, is required under the law to immediately issue delinquent certificates against said lands, under which the same are authorized to be sold and would be sold to pay said taxes, and the levy and existence of said taxes and threatened issuance of delinquent certificates and sale thereunder constitute a cloud upon plaintiff's title to said lands and all of them.

XXIX.

That upon the 27th day of May, 1914, your orator tendered and offered to pay to said Clifford L. Babcock, Treasurer of Clallam County, and to said Clallam County, the defendants herein, the full and true sum of Thirty Thousand (\$30,000) Dollars, lawful money of the United States, in payment of the taxes levied upon its lands in said County of Clallam for the year 1913; and your orator avers that the sum thus tendered is more than the taxes justly and equitably due from your orator to the defendants upon its lands aforesaid for such year, including all penalties, interest and costs, and more than the full amount which your orator would be required to pay if its property were assessed upon the same basis as all other property in Clallam County, or if said assessments were legal and equitable or equal and uniform with or compared to the assessments upon all other property within said county. Your orator herewith brings into court the sum of money in this paragraph specified and tenders and offers to pay, and does hereby pay the same, to and for the use and

benefit of the defendant County of Clallam, and your orator offers to pay and will pay any such other and further amounts as the court may find to be justly due from it or equitably owing by it to said Clallam County. And your orator avers that the taxes upon its said lands for all years prior to 1913 have been paid and that the taxes for the year 1913 have been paid and discharged by the tender and payment herein specified.

XXX.

Your orator avers that, by reason of the facts hereinbefore recited, the assessment of your orator's lands for taxation for the year 1913 is arbitrary, unjust, illegal and fraudulent as compared with the assessment of all other property in said Clallam County, and that such unlawful and fraudulent assessment is prohibited by the Constitution of the State of Washington, and that the assessment so made is, in particular, in violation of and contrary to Section 2, Article VII, of the Constitution of the State of Washington, in and by which it is provided that assessments and taxes shall be uniform and equal on all property in said State, according to its value in money, and that there shall be secured a just valuation for taxation of all property, so that every person and corporation shall pay a tax in proportion to the value of his, her or its property; and that the assessment so made is also in violation of and contrary to Section 1 of Article VII of the Constitution of the State of Washington which declares that all property in the state not exempt under the laws of the United States, or under said State Constitution, shall be taxed in proportion to its value. And your orator avers that in truth and in fact the taxes upon its lands, described in Exhibit 'A', are not uniform and equal as compared with all other property in said County of Clallam.

XXXI.

Your orator avers that if the assessment and levy of taxes for the year 1913 upon its lands in Clallam County, hereinbefore described, be not set aside, vacated and held for naught, the same will result in the

taking of the property of your orator without due process of law, and in denying to your orator the equal protection of the laws, contrary to the provisions of the XIVth Amendment to the Constitution of the United States, which provides that no State shall deprive any person of property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws. And your orator prays the protection afforded by said XIVth Amendment to the Constitution of the United States, and avers that this suit arises under the Constitution and Laws of the United States, and that for this reason, as well as because of the diverse citizenship of the parties, this Court has jurisdiction thereof.

XXXII.

Your orator therefore asks the aid of this Court in the premises and prays:

(a) That the County of Clallam, a municipal corporation, and Clifford L. Babcock, Treasurer of said County, answer this bill without oath, answer under oath of said defendants being hereby expressly waived.

(b) That this court decree that the assessments and taxes for the year 1913, imposed by the Assessing and Taxing Officers of the County of Clallam upon the lands of your orator, are unlawful, fraudulent and void; that the same are contrary to and in violation of the Constitution and Laws of the State of Washington and the provisions of the 14th Amendment to the Constitution of the United States.

(c) That this Court determine and decree what sums were or are justly and equitably owing by your orator for the taxes for the year 1913 upon its lands in Clallam County, described in Exhibit "A" hereto attached, and what assessments and taxes upon its lands are equal and uniform with or compared to the assessments and taxes upon all other property in said County.

(d) That it be determined and decreed that the sum of Thirty Thousand (\$30,000) Dollars, tendered by your orator to said defendants, is sufficient to pay all sums which were or are justly and equitably owing

by your orator for the taxes for the year 1913 upon its lands in said County of Clallam, described in said Exhibit "A".

(e) That said defendants, and each of them, be permanently enjoined and restrained from attempting to collect for the taxes of the year 1913 any sum or sums whatever in addition to those already tendered, and from selling or attempting to sell the lands or property of your orator, or any part thereof, to satisfy said taxes so levied for the year 1913 upon its lands in Clallam County, and that the cloud upon the title of your orator to its said lands which exists because or by reason of such unjust, illegal and fraudulent taxes, so levied, be forthwith removed and cancelled.

(f) That said defendants, and each of them, be in like manner enjoined until the further order of this Court.

(g) That such other or further order or decree be made in the premises as the nature of the case may require, and as to the Court shall seem meet.

XXXIII.

May it please your Honors to grant unto your orator the writ of injunction to be issued out of and under the seal of this Court in due form of law, permanently enjoining and restraining said defendants, County of Clallam and Clifford L. Babcock, Treasurer of said County, and each of them, from attempting to collect for the taxes of the year 1913 any sum or sums whatsoever in addition to those already tendered by your orator, and from selling or attempting to sell the lands or property of your orator, or any part thereof, to satisfy said taxes so levied for the year 1913 upon its lands in Clallam County; and that a writ of injunction be issued enjoining and restraining the defendants, and each of them, in like manner as herein prayed until the further order of this Court.

XXXIV.

May it please the Court, the premises being considered to grant unto your orator the writ of subpoena to be issued out of and under the seal of this Court, directed to said County of Clallam, a municipal cor-

poration, and Clifford L. Babcock, Treasurer of said County of Clallam, commanding them and each of them to appear before this Court at a date therein specified and answer this bill of complaint.

And your orator will ever pray, etc.

CLALLAM LUMBER COMPANY,

By Dan Earle.

PETERS & POWELL,

EARLE & STEINERT,

Attorneys for Complainant.

UNITED STATES OF AMERICA, STATE OF
WASHINGTON, COUNTY OF KING—SS.

On this 29th day of May, A. D. 1914, before me, a Notary Public in and for said County, personally appeared Dan Earle, to me known to be the same person who subscribed the foregoing bill of complaint in complainant's behalf, who made oath and says that he subscribed the name of complainant to the foregoing bill of complaint; that he is properly authorized so to do; that he is the attorney of said Clallam Lumber Company, a Michigan corporation; that no officer of said corporation is now within the State of Washington; that affiant has read the bill of complaint by him subscribed and knows the contents thereof, and that the same is true of his own knowledge, except as to matters therein stated on information and belief, and as to those matters he believes it to be true.

VOLNEY P. EVERS,

Notary Public in and for the State of Washington,
residing at Seattle.

CLALLAM LUMBER CO.

EXHIBIT "A"

Tp.	Rg.	Sec.	Description.	Acres.
29	13	12	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	40
28	13	17	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	40
28	14	9	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	12	NE $\frac{1}{4}$	160
"	"	"	S $\frac{1}{2}$ of NW $\frac{1}{4}$	80
"	"	13	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	40

"	"	14	Lot 4	34.50
"	"	"	N $\frac{1}{2}$ of SW $\frac{1}{4}$	80
"	"	"	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	15	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	24	N $\frac{1}{2}$ of NE $\frac{1}{4}$	80
29	14	1	Lot 1	40.19
"	"	"	Lot 2	41.04
"	"	"	Lot 3	41.99
"	"	"	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	40
28	13	2	Lot 4	38.71
"	"	3	Lot 1	35.50
"	"	"	Lot 4	39.82
"	"	"	NW $\frac{1}{2}$ of W $\frac{1}{2}$ of SE $\frac{1}{4}$ of NW $\frac{1}{4}$	10
"	"	4	Lot 4	29.25
"	"	"	Lot 7	38.25
"	"	"	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	"	SE $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	7	Lot 8	28.50
"	"	"	NW $\frac{1}{4}$ of NE $\frac{1}{4}$	40
"	"	"	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	40
"	"	"	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	SE $\frac{1}{4}$	160
"	"	8	S $\frac{1}{2}$ of NE $\frac{1}{4}$	80
"	"	"	Lot 3	27
"	"	"	" 4	37.75
"	"	"	" 5	49.50
"	"	"	N $\frac{1}{2}$ of SW $\frac{1}{4}$	80
"	"	"	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	9	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	18	N $\frac{1}{2}$ of NE $\frac{1}{4}$	80
"	"	"	NW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	40
29	13	1	SE $\frac{1}{4}$	160
"	"	"	S $\frac{1}{2}$ of SW $\frac{1}{4}$	80
"	"	"	Lot 1	42.75
"	"	"	" 2	18.65
"	"	"	" 3	16.05
"	"	"	" 4	37.02
"	"	"	31-63/100 acres in Lot 5	31.63
"	"	"	Lot 6	31.80

29	"	"	"	7	35.75
"	"	"	SE $\frac{1}{4}$ of SE $\frac{1}{4}$		40
"	"	"	Lot 1		41
"	"	"	"	2	24.30
"	"	"	"	3	33.40
"	"	"	"	4	37
"	"	"	"	7	7.80
"	"	"	"	8	24.20
"	"	"	"	10	9.75

			Forward, acres	2,643.10
Tp.	Rg.	Sec.	Description.	Acres.
			Forwarded	2643.10
29	13	2	Lot 11	38.15
"	"	"	12	31.60
"	"	"	13	39.55
"	"	"	15	38.25
"	"	3	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	Lot 3, Except Right-of-way	42.85
"	"	"	" 4 " " " "	39.52
"	"	"	" 5 " " " "	18.94
"	"	"	" 6	27.80
"	"	"	" 7	16
"	"	"	" 8	22.15
"	"	"	" 9	7.30
"	"	"	" 10	38.05
"	"	"	" 11	16.50
"	"	"	" 13	39.70
"	"	"	" 14	37
"	"	4	NE $\frac{1}{4}$ of SE $\frac{1}{4}$, Except Right-of-way	39.56
"	"	"	NW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	Lot 1	40.21
"	"	"	SE $\frac{1}{4}$ of SE $\frac{1}{4}$, Except Right-of-way	37.67
"	"	"	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	6	Lot 2	38.49
"	"	"	" 3	35.68
"	"	"	" 4	46.43
"	"	"	NW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	8	N $\frac{1}{2}$ of NE $\frac{1}{4}$	80

"	"	"	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	40
"	"	"	NW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	9	Lot 1, Except Right-of-way	39.66
"	"	"	" 2 " " " "	20.15
"	"	"	" 3 " " " "	32.94
"	"	"	" 4 " " " "	29.80
"	"	"	" 5 " " " "	32.93
"	"	"	" 6	31.20
"	"	"	" 7	17.15
"	"	"	" 8	42.30
"	"	9	" 9	39.10
"	"	"	NW $\frac{1}{4}$ of NE $\frac{1}{4}$, Except Right-of-way	37.48
"	"	"	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	NE $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	W $\frac{1}{2}$ of SW $\frac{1}{4}$	80
"	"	10	NE $\frac{1}{4}$	160
"	"	"	Lot 1	33.40
"	"	"	" 2	6.25
"	"	"	" 3	31.20
"	"	"	" 4	39.80
"	"	"	NW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	"	S $\frac{1}{2}$ of SW $\frac{1}{4}$	80
"	"	11	NE $\frac{1}{4}$	160
"	"	"	NW $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	12	NE $\frac{1}{4}$	160
"	"	"	NW $\frac{1}{4}$	160
"	"	"	NE $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	13	NE $\frac{1}{4}$ of NE $\frac{1}{4}$	40
Forwarded, acres				5287.86
Tp.	Rg.	Sec.	Description.	Acres.
Forwarded				5287.86
29	13	14	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	15	NW $\frac{1}{4}$ of NE $\frac{1}{4}$	40
"	"	"	N $\frac{1}{2}$ of NW $\frac{1}{4}$	80
"	"	"	SE $\frac{1}{4}$	160

"	"	"	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	"	SE $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	16	NE $\frac{1}{4}$ of NE $\frac{1}{4}$	40
"	"	"	SE $\frac{1}{4}$ of NE $\frac{1}{4}$	40
"	"	"	2-30/100 acres in SE $\frac{1}{4}$ of SE $\frac{1}{4}$	2.30
"	"	"	NW $\frac{1}{4}$ of SW $\frac{1}{4}$, Except Right-of-way	38.13
"	"	"	Lot 1, Except Right-of-way	36.85
"	"	"	" 7	34.20
"	"	"	" 8	29.50
"	"	17	NE $\frac{1}{4}$	160
"	"	"	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	NW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	"	SE $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	20	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	40
"	"	"	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	N $\frac{1}{2}$ of SE $\frac{1}{4}$	80
"	"	21	Lot 1	39.75
"	"	"	" 2, Except 1-85/100 acres	27.60
"	"	"	" 3	34.05
"	"	"	" 7	7.25
"	"	"	" 10	15.30
"	"	22	N $\frac{1}{2}$ of NW $\frac{1}{4}$	80
"	"	"	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	Lot 1	29.15
"	"	"	" 4	38.60
"	"	26	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	27	NW $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	SE $\frac{1}{4}$	160
"	"	28	Lot 7	37.15
"	"	"	" 8	34.55
"	"	"	" 9	25.95
"	"	"	" 10	31.45
"	"	"	" 11	7.15
"	"	"	NE $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	31	SE $\frac{1}{4}$ of NE $\frac{1}{4}$	40
"	"	"	Lot 1	45.57

"	"	"	"	2	45.53
"	"	"	"	3	11.30
"	"	"	"	8	30.50
"	"	32	SW $\frac{1}{4}$		160
"	"	33	NE $\frac{1}{4}$ of NE $\frac{1}{4}$		40
"	"	"	NE $\frac{1}{4}$ of NW $\frac{1}{4}$		40
"	"	"	Lot 1		30.50
"	"	"	SW $\frac{1}{4}$ of NW $\frac{1}{4}$		40
"	"	"	SW $\frac{1}{4}$		160
"	"	34	NE $\frac{1}{4}$ of NE $\frac{1}{4}$		40
"	"	"	SE $\frac{1}{4}$ of NE $\frac{1}{4}$		40
"	"	"	NW $\frac{1}{4}$ of NW $\frac{1}{4}$		40
"	"	"	S $\frac{1}{2}$ of NW $\frac{1}{4}$		80
"	"	35	NW $\frac{1}{4}$ of NE $\frac{1}{4}$		40
"	"	"	S $\frac{1}{2}$ of NE $\frac{1}{4}$		80

			Forwarded	8200.19
Tp.	Rg.	Sec.	Description.	Acres.
			Forwarded	8200.19
29	13	35	S $\frac{1}{2}$ of NW $\frac{1}{4}$	80
30	13	10	N $\frac{1}{2}$ of SE $\frac{1}{4}$	80
"	"	20	NE $\frac{1}{4}$ of NE $\frac{1}{4}$	40
"	"	"	SE $\frac{1}{4}$ of NE $\frac{1}{4}$	40
"	"	"	NW $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	SE $\frac{1}{4}$	160
"	"	"	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	"	S $\frac{1}{2}$ of SW $\frac{1}{4}$	80
"	"	23	SE $\frac{1}{4}$	160
"	"	24	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	25	NE $\frac{1}{4}$ of NE $\frac{1}{4}$	40
"	"	"	NW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	Lot 5	18.10
"	"	"	" 6	26.55
"	"	"	" 7	39.30
"	"	26	NW $\frac{1}{4}$	160
"	"	29	NW $\frac{1}{4}$ of NE $\frac{1}{4}$	40
"	"	"	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	40
"	"	"	NW $\frac{1}{4}$	160
"	"	30	NE $\frac{1}{4}$	160

"	"	31	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	Lot 1	39.30
"	"	"	" 2	39.50
"	"	"	NW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	31	Lot 3	39.70
"	"	"	SE $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	"	Lot 4	39.90
"	"	33	NE $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	34	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	"	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	35	Lot 3, Except Right-of-way	37.58
"	"	"	" 5	11.20
"	"	"	" 6	25.50
"	"	"	NE $\frac{1}{4}$ of SE $\frac{1}{4}$, Except Right-of-way	38.10
"	"	"	NW $\frac{1}{4}$ of SE $\frac{1}{4}$, " " "	38.13
"	"	"	S $\frac{1}{2}$ of SE $\frac{1}{4}$	80
"	"	"	S $\frac{1}{2}$ of SW $\frac{1}{4}$	80
"	"	36	Lot 1	30.45
"	"	"	" 6	39.80
"	"	"	" 7	14.50
"	"	"	" 8	17.35
"	"	"	" 10	16.25
"	"	"	East 13 acres of Lot 11	13
"	"	"	NW $\frac{1}{4}$ of SW $\frac{1}{4}$, Except Right-of-way	38.08
"	"	"	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	40
29	12	1	S $\frac{1}{2}$ of SE $\frac{1}{4}$	80
"	"	2	S $\frac{1}{2}$ of SE $\frac{1}{4}$	80
"	"	"	S $\frac{1}{2}$ of SW $\frac{1}{4}$	80
"	"	3	S $\frac{1}{2}$ of SE $\frac{1}{4}$	80
"	"	"	SE $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	4	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	"	S $\frac{1}{2}$ of SW $\frac{1}{4}$	80
"	"	"	Lot 4	37.23
"	"	5	All of	476.16
"	"	6	N $\frac{1}{2}$ of SE $\frac{1}{4}$	80

"	"	"	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	"	SE $\frac{1}{4}$ of SW $\frac{1}{4}$	40
				<hr/>
Forwarded, acres				11,995.87
Tp.	Rg.	Sec.	Description.	Acres.
Forwarded				11,995.87
29	12	6	Lot 1	40.89
"	"	"	" 2	41.76
"	"	"	" 3	40.64
"	"	"	" 5	32.40
"	"	"	" 6	34.60
"	"	"	" 7	35.13
"	"	7	All of	623.60
"	"	8	N $\frac{1}{2}$ of	320
"	"	9	N $\frac{1}{2}$ of	320
"	"	10	NE $\frac{1}{4}$	160
"	"	"	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	S $\frac{1}{2}$ of NW $\frac{1}{4}$	80
"	"	"	SE $\frac{1}{4}$	160
"	"	"	SW $\frac{1}{4}$	160
"	"	11	All of	640
"	"	12	All of	640
"	"	13	All of	640
"	"	14	All of	640
"	"	15	All of	640
"	"	20	SE $\frac{1}{4}$	160
"	"	21	NE $\frac{1}{4}$	160
"	"	"	N $\frac{1}{2}$ of SE $\frac{1}{4}$	80
"	"	"	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	SW $\frac{1}{4}$	160
"	"	22	All of	640
"	"	23	All of	640
"	"	24	NE $\frac{1}{4}$	160
"	"	"	NW $\frac{1}{4}$	160
"	"	"	NW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	SW $\frac{1}{4}$	160
"	"	25	NW $\frac{1}{4}$ of NE $\frac{1}{4}$	40
"	"	26	NW $\frac{1}{4}$	160
"	"	27	NE $\frac{1}{4}$	160

			N $\frac{1}{2}$ of NW $\frac{1}{4}$	80
			SW $\frac{1}{4}$ of NW $\frac{1}{4}$	40
			SE $\frac{1}{4}$	160
			SW $\frac{1}{4}$	160
		28	NE $\frac{1}{4}$	160
			NW $\frac{1}{4}$	160
			NE $\frac{1}{4}$ of SE $\frac{1}{4}$	40
			S $\frac{1}{2}$ of SW $\frac{1}{4}$	80
		29	NE $\frac{1}{4}$	160
			NW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
			SW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
29	11	18	All of	646.08
		19	S $\frac{1}{2}$ of NE $\frac{1}{4}$	80
		20	NE $\frac{1}{4}$	160
			S $\frac{1}{2}$ of NW $\frac{1}{4}$	80
		21	NW $\frac{1}{4}$	160
30	11	7	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	40
			SE $\frac{1}{4}$ of SE $\frac{1}{4}$	40
			NE $\frac{1}{4}$ of SW $\frac{1}{4}$	40
			Lot 3	29.40
			SE $\frac{1}{4}$ of SW $\frac{1}{4}$	40
		8	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	40
		9	S $\frac{1}{2}$ of SW $\frac{1}{4}$	80
		16	N $\frac{1}{2}$ of NW $\frac{1}{4}$	80

			Forwarded, acres	22,720.37
Tp.	Rg.	Sec.	Description.	Acres.
			Forwarded	22,720.37
30	11	17	NE $\frac{1}{4}$ of NE $\frac{1}{4}$	40
			S $\frac{1}{2}$ of NE $\frac{1}{4}$	80
			SW $\frac{1}{4}$ of NW $\frac{1}{4}$	40
		18	NE $\frac{1}{4}$ of NE $\frac{1}{4}$	40
			SE $\frac{1}{4}$ of NE $\frac{1}{4}$	40
			SE $\frac{1}{4}$ of NW $\frac{1}{4}$	40
			NE $\frac{1}{4}$ of SW $\frac{1}{4}$	40
			Lot 3	24.82
			SE $\frac{1}{4}$ of SW $\frac{1}{4}$	40
			Lot 4	24.28
		25	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	40
			NW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
			Lot 1	38

"	"	"	"	6	4.90
"	"	"	"	7	6.50
"	"	"	"	10	15.39
"	"	"	"	12	19.60
"	"	26	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	40	
"	"	"	S $\frac{1}{2}$ of SE $\frac{1}{4}$	80	
"	"	"	SE $\frac{1}{4}$ of SW $\frac{1}{4}$	40	
"	"	"	Lot 3	39.78	
"	"	"	"	4	41.16
"	"	"	"	5	11.30
"	"	"	"	6	22
"	"	"	"	7	41.50
"	"	"	"	8	38
"	"	27	SW $\frac{1}{4}$	160	
"	"	"	Lot 6	11	
"	"	"	"	8	5.10
"	"	"	"	10	23.30
"	"	28	"	1	1.90
"	"	"	"	4	23.10
"	"	"	"	5	23.50
"	"	"	"	8	5.85
"	"	"	"	10	4.75
"	"	"	"	12	4.60
"	"	29	"	1	.10
"	"	30	SE $\frac{1}{4}$ of SW $\frac{1}{4}$	40	
"	"	31	S $\frac{1}{2}$ of SE $\frac{1}{4}$	80	
"	"	"	Lot 1	8.75	
"	"	"	Lot 12, Except South 12 Acres	9.80	
"	"	32	S $\frac{1}{2}$ of NE $\frac{1}{4}$	80	
"	"	"	S $\frac{1}{2}$ of NW $\frac{1}{4}$	80	
"	"	"	N $\frac{1}{2}$ of SE $\frac{1}{4}$	80	
"	"	"	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	40	
"	"	"	SW $\frac{1}{4}$	160	
"	"	"	Lot 1	25.20	
"	"	"	"	6	21
"	"	"	"	7	11
"	"	"	"	8	12.20
"	"	33	NE $\frac{1}{4}$	160	
"	"	"	NW $\frac{1}{4}$	160	
"	"	"	NE $\frac{1}{4}$ of SE $\frac{1}{4}$	40	
"	"	"	N $\frac{1}{2}$ of SW $\frac{1}{4}$	80	

"	"	"	"	6	8.20
"	"	"	"	7	4.25
"	"	"	"	8	30.18
"	"	"	"	9	29.60
"	"	"	"	10	5.75
"	"	30	NE $\frac{1}{4}$ of NE $\frac{1}{4}$	40	
"	"	"	S $\frac{1}{2}$ of NE $\frac{1}{4}$	80	
"	"	"	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	40	
"	"	"	Lot 1	30.92	
"	"	"	"	7	7.50
"	"	"	"	8	21
"	"	"	"	10	32.20
"	"	"	"	11	11
"	"	"	"	12	25.50
"	"	"	"	13	7.45
"	"	"	"	14	20.75
"	"	31	NE $\frac{1}{4}$	160	
"	"	"	NE $\frac{1}{4}$ of NW $\frac{1}{4}$ or Lot 7	40	
"	"	"	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	40	
"	"	"	SE $\frac{1}{4}$	160	
"	"	"	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	40	
"	"	"	SE $\frac{1}{4}$ of SW $\frac{1}{4}$	40	
"	"	"	Lot 2	21.30	
"	"	"	"	3	35.06
"	"	"	"	4	35.82
"	"	"	"	5	33.08
"	"	32	"	2	30.15
"	"	"	NW $\frac{1}{4}$ of NE $\frac{1}{4}$	40	
"	"	"	S $\frac{1}{2}$ of NE $\frac{1}{4}$	80	
"	"	"	NW $\frac{1}{4}$	160	
"	"	"	SE $\frac{1}{4}$	160	
"	"	"	SW $\frac{1}{4}$	160	

				Forwarded	28,269.83
Tp.	Rg.	Sec.	Description.	Acres.	
				Forwarded	28,269.83
30	12	33	S $\frac{1}{2}$ of NW $\frac{1}{4}$	80	
"	"	"	N $\frac{1}{2}$ of SW $\frac{1}{4}$	80	
"	"	"	Lot 1	28.15	
"	"	"	"	2	22.85
"	"	"	"	3	9.50

"	"	"	"	4	30.50
"	"	"	"	5	37.50
"	"	"	"	8	31.15
"	"	"	"	9	29.50
"	"	34	"	4	7.15
"	"	"	"	5	32.35
"	"	"	"	7	35.10
"	"	36	SE $\frac{1}{4}$ of SW $\frac{1}{4}$	40	
"	"	"	Lot 6	10.76	
"	"	"	"	7	36.79
"	"	"	"	9	38.10
"	"	"	"	11	20
29	11	3	"	1	29.32
"	"	"	"	2	29.59
"	"	"	"	3	29.36
"	"	"	"	4	29.13
"	"	5	"	3	29.32
"	"	"	"	3	29.42
"	"	"	"	4	29.50
"	"	"	"	5	40
"	"	"	"	6	40
"	"	"	"	7	40
"	"	"	"	8	40
"	"	6	"	1	29.75
"	"	7	NE $\frac{1}{4}$ of NE $\frac{1}{4}$	40	
"	"	"	Lot 2	41.80	
"	"	"	NE $\frac{1}{4}$ of SE $\frac{1}{4}$	40	
"	"	"	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	40	
"	"	"	Lot 3	43.70	
"	"	"	SE $\frac{1}{4}$ of SW $\frac{1}{4}$	40	
"	"	"	Lot 4	41.59	
"	"	"	NE $\frac{1}{4}$	160	
"	"	"	NW $\frac{1}{4}$ of NW $\frac{1}{4}$	40	
"	"	"	SE $\frac{1}{4}$	160	
"	"	"	SW $\frac{1}{4}$	160	
"	"	9	NW $\frac{1}{4}$ of NE $\frac{1}{4}$	40	
"	"	"	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	40	
"	"	"	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	40	
"	"	"	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	40	
"	"	"	S $\frac{1}{2}$ of SE $\frac{1}{4}$	80	
"	"	"	S $\frac{1}{2}$ of SW $\frac{1}{4}$	80	

"	"	10	N $\frac{1}{2}$ of SE $\frac{1}{4}$	80
"	"	"	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	16	NW $\frac{1}{4}$ of NE $\frac{1}{4}$	40
"	"	"	N $\frac{1}{2}$ of NW $\frac{1}{4}$	80
"	"	"	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	17	All of	640
29	12	32	SE $\frac{1}{4}$ of NE $\frac{1}{4}$	40
"	"	"	NW $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	S $\frac{1}{2}$ of SE $\frac{1}{4}$	80
"	"	"	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	40

			Forwarded	31,561.71
Twp.	Rg.	Sec.	Description.	Acres.
			Forwarded	31,561.71
29	12	32	S $\frac{1}{2}$ of SW $\frac{1}{4}$	80
"	"	33	NE $\frac{1}{4}$	160
"	"	"	NW $\frac{1}{4}$	160
"	"	"	SE $\frac{1}{4}$	160
"	"	"	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	"	S $\frac{1}{2}$ of SW $\frac{1}{4}$	80
"	"	34	NE $\frac{1}{4}$	160
"	"	"	NW $\frac{1}{4}$	160
"	"	"	N $\frac{1}{2}$ of SE $\frac{1}{4}$	80
"	"	"	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	SW $\frac{1}{4}$	160
30	12	1	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	2	S $\frac{1}{2}$ of NE $\frac{1}{4}$	80
"	"	"	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	S $\frac{1}{2}$ of SE $\frac{1}{4}$	80
"	"	"	N $\frac{1}{2}$ of SW $\frac{1}{4}$	80
"	"	3	S $\frac{1}{2}$ of NE $\frac{1}{4}$	80
"	"	"	N $\frac{1}{2}$ of SE $\frac{1}{4}$	80
"	"	"	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	9	S $\frac{1}{2}$ of NE $\frac{1}{4}$	80
"	"	"	S $\frac{1}{2}$ of NW $\frac{1}{4}$	80
"	"	"	N $\frac{1}{2}$ of SE $\frac{1}{4}$	80
"	"	"	SW $\frac{1}{4}$	160
"	"	10	S $\frac{1}{2}$ of NW $\frac{1}{4}$	80
"	"	"	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	40

"	"	11	N $\frac{1}{2}$ of NE $\frac{1}{4}$	80
"	"	"	NW $\frac{1}{4}$	160
"	"	15	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	SW $\frac{1}{4}$	160
"	"	17	S $\frac{1}{2}$ of SE $\frac{1}{4}$	80
"	"	"	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	"	S $\frac{1}{2}$ of SW $\frac{1}{4}$	80
"	"	18	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	40
"	"	"	SE $\frac{1}{4}$	160
"	"	19	N $\frac{1}{2}$ of NE $\frac{1}{4}$	80
"	"	"	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	40
"	"	"	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	N $\frac{1}{2}$ of SE $\frac{1}{4}$	80
"	"	"	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	Lot 4	30.57
"	"	20	NE $\frac{1}{4}$	160
"	"	"	N $\frac{1}{2}$ of NW $\frac{1}{4}$	80
"	"	"	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	North 30 acres of NE $\frac{1}{4}$ of SE $\frac{1}{4}$	30
"	"	"	NW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	N $\frac{1}{2}$ of SW $\frac{1}{4}$	80
"	"	"	N $\frac{1}{2}$ of SE $\frac{1}{4}$ of SW $\frac{1}{4}$	20
"	"	"	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	21	NE $\frac{1}{4}$	160
"	"	"	NW $\frac{1}{4}$	160
"	"	"	SE $\frac{1}{4}$	160
"	"	"	N $\frac{1}{2}$ of SW $\frac{1}{4}$	80
"	"	"	SE $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	22	NE $\frac{1}{4}$	160
"	"	"	NW $\frac{1}{4}$	160
"	"	"	NE $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	23	S $\frac{1}{2}$ of NE $\frac{1}{4}$	80
"	"	"	NW $\frac{1}{4}$ of NW $\frac{1}{4}$	40

			Forwarded	36,682.28
Twp.	Rg.	Sec.	Description.	Acres.
			Forwarded	36,682.28
30	12	23	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	N $\frac{1}{2}$ of SE $\frac{1}{4}$	80

"	"	"	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	"	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	24	NW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	SW $\frac{1}{4}$	160
"	"	25	NE $\frac{1}{4}$ of NE $\frac{1}{4}$	40
"	"	"	SE $\frac{1}{4}$ of NE $\frac{1}{4}$	40
"	"	"	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	SW $\frac{1}{4}$	160
"	"	26	NE $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	40
30	10	27	NE $\frac{1}{4}$ NE $\frac{1}{4}$, Except Right-of-way	39.03
"	"	"	NW $\frac{1}{4}$ NE $\frac{1}{4}$ " " " "	39.04
"	"	"	S $\frac{1}{2}$ of NE $\frac{1}{4}$	80
"	"	"	NE $\frac{1}{4}$ NW $\frac{1}{4}$, Except Right-of-way	39.03
30	10	27	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	SW $\frac{1}{4}$ NW $\frac{1}{4}$, Except Right-of-way	39.20
"	"	"	N $\frac{1}{2}$ of SE $\frac{1}{4}$	80
"	"	"	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	"	S $\frac{1}{2}$ of SW $\frac{1}{4}$	80
"	"	28	NW $\frac{1}{4}$ of NE $\frac{1}{4}$	40
"	"	"	SE $\frac{1}{4}$ NE $\frac{1}{4}$, Except Right-of-way	39.07
"	"	"	SW $\frac{1}{4}$ NE $\frac{1}{4}$ " " " "	39.37
"	"	"	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	NE $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	SE $\frac{1}{4}$ SE $\frac{1}{4}$, Except Right-fo-way	38.83
"	"	"	Lot 5	2.15
"	"	"	" 6	7.50
"	"	"	" 7	21.70
"	"	30	SE $\frac{1}{4}$	160
"	"	"	Lot 7	52.50
"	"	"	" 8	50.43
"	"	31	NE $\frac{1}{4}$	160
"	"	"	SE $\frac{1}{4}$	160
"	"	"	Lot 1	50.45
"	"	"	" 2	50.54
"	"	"	" 3	50.63
"	"	32	NE $\frac{1}{4}$	160
"	"	"	NW $\frac{1}{4}$	160
"	"	"	SW $\frac{1}{4}$	160

"	"	33	NE $\frac{1}{4}$ NE $\frac{1}{4}$, Except Right-of-way	39.35
"	"	"	N $\frac{1}{2}$ of NW $\frac{1}{4}$	80
"	"	"	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	NW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	S $\frac{1}{2}$ of SE $\frac{1}{4}$	80
"	"	"	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	"	Lot 1	22.60
"	"	"	" 2	11.20
"	"	"	" 3	26
"	"	"	" 4	12.50
"	"	"	" 5, Except Right-of-way	32.60
"	"	"	" 6	7.40
"	"	"	" 7	33.35
"	"	34	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	40
"	"	"	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	NW $\frac{1}{4}$ NW $\frac{1}{4}$, Except Right-of-way	39.62
"	"	"	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	40

			Forwarded	40,106.37
Twp.	Rg.	Sec.	Description.	Acres.
			Forwarded	40,106.37
30	10	34	SW $\frac{1}{4}$ NW $\frac{1}{4}$, Except Right-of-way	39.20
"	"	"	NW $\frac{1}{4}$ SE $\frac{1}{4}$ " " " "	39.23
"	"	"	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	"	Lot 1, Except Right-of-way	35.89
"	"	"	" 2 " " " "	8.37
"	"	"	" 3	6.75
"	"	"	" 4 Except Right-of-way	34.57
"	"	"	" 6	13.40
"	"	"	" 7	26.80
"	"	"	" 8	25.90
"	"	"	" 9	37
28	14	2	Lot 4	40.80
"	"	23	SE $\frac{1}{4}$ of NE $\frac{1}{4}$	40
"	"	24	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	40
29	11	6	Lot 6	40
"	"	"	" 7	40
"	"	"	" 8	40
"	"	7	NW $\frac{1}{4}$ of NE $\frac{1}{4}$	40
29	12	32	NW $\frac{1}{4}$ of NE $\frac{1}{4}$	40
"	"	"	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	40

"	"	"	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	40
"	"	"	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	40
30	12	34	N $\frac{1}{2}$ of SW $\frac{1}{4}$	80
"	"	"	Lot 1	4.60
"	"	"	" 2	30.60
"	"	"	" 9	8.25
"	"	"	" 10	31.50
"	"	"	" 11	21.70
"	"	"	" 13	2.30
"	"	27	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
30	11	25	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	40
"	"	"	Lot 4	30
"	"	"	" 5	30.40
"	"	"	" 11	39.17
29	12	28	NW $\frac{1}{4}$ of SE $\frac{1}{4}$	40
"	"	"	S $\frac{1}{2}$ of SE $\frac{1}{4}$	80
30	12	19	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	40

Forwarded 41,372.80

EXHIBIT "B"

FIR	992,207	M
SPRUCE	273,431	M
CEDAR	596	M
WHITE FIR	722	M
HEMLOCK	153,285 $\frac{1}{2}$	M

1,420,241 $\frac{1}{2}$ M

POLES

56,608

TIES

134,419

EXHIBIT "C"

FIR	76,780	M
Spruce	1,211	M
Cedar	518	M
White Fir	256 $\frac{1}{2}$	M
Hemlock	58,091 $\frac{1}{4}$	M

136,856 $\frac{3}{4}$ M

POLES

80,998

Clallam Lumber Company

TIES

195,375

EXHIBIT "D"

FIR	607,104 $\frac{1}{4}$	M
Spruce	76,069 $\frac{1}{2}$	M
Cedar	12,570 $\frac{1}{2}$	M
White Fir	23,447 $\frac{3}{4}$	M
Hemlock	391,110 $\frac{1}{4}$	M

 1,110,302 $\frac{1}{4}$

POLES

202,516

TIES

295,460

EXHIBIT "E"

FIR	43,052	M
Spruce	3,082	M
Cedar	2,082	M
White Fir	325	M
Hemlock	16,197 $\frac{1}{2}$	M

 64,738 $\frac{1}{2}$ M

POLES

8,290

TIES

4,775

EXHIBIT "F"

FIR	2,802	M
Spruce	100	M
Cedar	121 $\frac{1}{2}$	M
Hemlock	1,028 $\frac{1}{2}$	M

 4,052 M

POLES

3,640

TIES

7,000

Indorsed: Bill of Complaint. Filed May 29, 1914.

No. 36

MOTION TO DISMISS PLAINTIFF'S BILL

Come now the defendants in the above entitled action, appearing by Sandford C. Rose, County Attorney for Clallam County, Washington, J. E. Frost, C. F. Rid-dell and Edwin C. Ewing, attorneys for the defend-ants, and respectfully move the court for an order dis-missing the bill of complaint of plaintiff upon the grounds and for the reasons following:

I

Because the plaintiff at all times mentioned in its said bill of complaint has had a plain, speedy and adequate remedy under the statutes of the State of Washington.

II

Because it fully appears in plaintiff's bill of com-plaint that the matters and things therein alleged and complained of have long been acquiesced in and con-sented to by plaintiff, and plaintiff is in equity and good conscience denied from controverting their jus-tice and legality.

III

Because the facts alleged in plaintiff's said bill of complaint are not in violation of any constitutional or statutory provision nor of any rule or principle of justice or equity, but to the contrary are in compliance with both law and equity.

IV

Because the matters and things alleged in plain-tiff's said bill of complaint are not sufficient to entitle it to the relief prayed for or to any relief whatsoever or to be heard or to maintain an action.

SANDFORD C. ROSE.

J. E. FROST.

C. F. RIDDELL.

EDWIN C. EWING.

Indorsed: Motion to Dismiss. Filed June 18, 1914.

No. 36

MEMO DECISION

Peters & Powell
Earle & Steinert
For Plaintiff
Charles F. Riddell
J. K. Cochran
J. E. Frost
Edwin C. Ewing
For Defendants.

NETERER, District Judge:

An order may be presented denying the motion to dismiss. By the allegations of the bill of complaint, actual fraud is charged between the assessing officers. The facts recited in the complaint are not mistakes of fact or errors of judgment on the part of the assessing and equalizing officers, but actual fraud is charged, and confederation and co-operation with relation to the excessive valuation and assessment of the lands of the complainant. By reason of the allegations and charges made in the bill of complaint, I think justice demands that the bill be answered, and whether relief should be afforded to the complainants will depend upon the evidence which is presented in support of the charges and complaints made.

JEREMIAH NETERER, Judge.

Indorsed: Memorandum Decision Denying Motion to Dismiss. Filed October 26, 1914.

In Equity No. 36

ORDER DENYING DEFENDANTS' MOTION TO DISMISS

This cause coming on to be heard upon the motion of the defendants Clallam County and Clifford L. Babcock, Treasurer of said County, to dismiss the bill of complaint of the plaintiff, and the matter having been argued by counsel and submitted to the court, said motion to dismiss is overruled and denied.

To which ruling of this court the defendants except and their exception is allowed.

Done in open court this 30th day of October, 1914.

Jeremiah Neterer, Judge.

Indorsed: Order Denying Motion to Dismiss.
Filed October 30, 1914.

No. 36

STIPULATION FOR PAYMENT AND RECEIPT
OF PLAINTIFF'S TENDER

IT IS STIPULATED between plaintiff and defendants herein as follows, to wit:

That the amount of money alleged by complainant to have been tendered in this cause and by it deposited with the Clerk of this court in furtherance of its tender may be paid over by the Clerk to the Treasurer of Clallam County and that such payment shall be received by the County Treasurer and operate as a credit to that extent upon the claim for taxes of the county against the complainant, with respect to the lands involved in this suit and that there shall be no penalty or interest charged or collected by the County or its Treasurer against this plaintiff or these lands, on account of the amount so paid in upon said taxes from and after the date of payment herein contemplated to the County Treasurer, whatever the event of this litigation.

With reference to any commissions to be deducted by the Clerk of this court on disbursing under this stipulation the moneys so paid, it is agreed that this feature shall follow the direction of the court in the final determination of this cause.

The payment to and receipt by the County Treasurer of this money shall not prejudice the position of plaintiff or defendants in this litigation, or operate to bar or foreclose the plaintiffs or defendants in their contentions herein, save pro tanto, as a credit to this amount to be given this day as payment on account of the taxes involved; but it shall operate as a waiver of any claim to penalty or interest on the part of the county, from this day forward, upon the amount of taxes covered by this payment.

IT IS STIPULATED that an order of court enforce-

ing this stipulation may be entered, upon application of either party hereto.

Dated this 4th day of November, 1914.

PETERS & POWELL,
EARLE & STEINERT,
Attorneys for Plaintiff.

J. E. COCHRAN,
J. E. FROST,
CHARLES F. RIDDELL,
EDWIN C. EWING,
Attorneys for Defendants.

Indorsed: Stipulation. Filed November 6, 1914.

No. 36

ORDER UPON STIPULATION TO RECEIPT
FOR PLAINTIFF'S TENDER

This matter coming on to be heard upon the Stipulation of the parties plaintiff and defendant herein filed on the 5th day of November, 1914, with respect to the payment to and acceptance by the defendants of the moneys paid into this court by complainant, and the same being submitted to this court, and being considered to the best interests of all parties that said payment be allowed and said county be permitted to accept same, upon the conditions set forth in the stipulation.

IT is hereby ordered that the Clerk of this court pay out said moneys to the defendant Treasurer of Clallam County in furtherance of said stipulation; the scope and effect of same and the rights of the parties to be as defined in said stipulation.

Done in open court this 6th day of November, 1914.

JEREMIAH NETERER, Judge.

Indorsed: Order. Filed November 6, 1914.

No. 1876

OFFICE OF COUNTY TREASURER
CLALLAM COUNTY, WASHINGTON
DUPLICATE

Port Angeles, Wash., Nov. 7/14.

Received of Frank L. Crosby, Clerk, \$29,400.00,

Twenty-nine thousand four hundred and no/100 dollars advance tax for Clallam Lumber Co.

C. L. BABCOCK,

Treasurer of Clallam County.

By D. J. Kelly, Deputy.

Indorsed: Receipt of County Treasurer. Filed November 9, 1914.

No. 36

DEFENDANTS' ANSWER TO AMENDED BILL
OF COMPLAINT

TO THE HONORABLE JUDGES OF THE
ABOVE ENTITLED COURT:

Come now Clallam County, a municipal corporation of the State of Washington, and Clifford L. Babcock, Treasurer of said Clallam County, the defendants named in the above entitled action, and for answer to the Amended Bill of Complaint of the Plaintiff herein, respectfully submit the following:

I

With reference to paragraph I, these defendants allege that they are without knowledge or information sufficient to form a belief as to the truth of the allegations therein contained, but they are willing to admit the same.

II

With reference to paragraph II, these defendants admit the allegations thereof.

III

With reference to paragraph III, these defendants admit that the defendant, Clifford L. Babcock, now is, and ever since the 9th day of January, 1911, has been, the duly elected, qualified and acting Treasurer of Clallam County, Washington, and a resident and inhabitant of said Clallam County.

IV

With reference to paragraph IV, these defendants admit the allegations thereof.

V

With reference to paragraph V, these defendants admit the allegations thereof.

VI

With reference to paragraph VI, these defendants admit that the timber lands of said county have been cruised and estimates of the quantities and quality of the different species of timber carefully made, and that such estimates were consulted and were a factor in determining the taxable values of timber lands in said county, and these defendants admit that the geographical location, availability, physical characteristics of the ground, and other elements influencing the market value of timber and timber lands, were carefully considered in making assessments referred to in said paragraph VI, and deny all the other allegations contained in said paragraph VI.

VII

With reference to paragraph VII, these defendants deny the allegations thereof.

VIII

With reference to paragraph VIII, these defendants admit that the assessing officers of said county for the year 1913 put upon the timber and the lands of the plaintiff the valuations therein set forth; admit that the plaintiffs are the owners of lands and timber to the extent and in the amounts of the figures therein set forth; and deny all the other allegations thereof.

IX

With reference to paragraph IX thereof, these defendants admit that the assessing officers of said county for the year 1913 put upon the timber and the lands of the plaintiff the valuations therein set forth; admit that the plaintiff is the owner of lands and timber to the extent and in the amounts of the figures therein stated; deny all the other allegations therein contained; and allege that all of said lands referred to in said paragraph are assessed for taxation at the same proportion of their market value as other similar timber lands in said county.

X

With reference to paragraph X thereof, these defendants admit that the assessing officers of said county for the year 1913 put upon the timber and lands of the

plaintiff the valuations therein set forth; admit that the plaintiff is the owner of the lands and the timber to the extent and in the amount of the figures therein stated; deny all the other allegations therein contained; and allege that all of said lands referred to in said paragraph are assessed for taxation at the same proportion of their market value as other similar timber lands in said county.

XI

With reference to paragraph XI thereof, these defendants admit that the assessing officers of said county for the year 1913 put upon the timber and lands of the plaintiff the valuations therein set forth; admit that the plaintiff is the owner of the lands and the timber to the extent and in the amounts of the figures therein set forth; deny all the other allegations therein contained; and allege that all of said lands referred to in said paragraph are assessed for taxation at the same proportion of their market value as other similar timbered lands in said county.

XII

With reference to paragraph XII thereof, these defendants admit that the assessing officers of said county for the year 1913 put upon the timber and lands of the plaintiff the valuations therein set forth; admit that the plaintiff is the owner of the lands and the timber to the extent and in the amount of the figures therein stated; deny all the other allegations therein contained; and allege that all of said lands referred to in said paragraph are assessed for taxation at the same proportion of their market value as other similar timber lands in said county.

XIII

With reference to paragraph XIII, these defendants admit the plaintiff's occupation and possession of lands as therein alleged; admit the duties of the Treasurer of Clallam County as therein alleged; and deny all the other allegations thereof.

XIV

With reference to paragraph XIV thereof, these defendants admit that the assessing officers of said

county for the year 1913 put upon the timber and lands of the plaintiff the valuations therein set forth; admit that the plaintiff is the owner of lands and timber to the extent and in the amounts of the figures therein stated; deny all the other allegations therein contained; and allege that all of said lands referred to in said paragraph are assessed for taxation at the same proportion of their market value as other similar timbered lands of said county.

XV

With reference to paragraph XV, these defendants admit the allegations thereof.

XVI

With reference to paragraph XVI, these defendants deny the allegations thereof.

XVII

With reference to paragraph XVII, these defendants deny the allegations thereof.

XVIII

With reference to paragraph XVIII, these defendants admit the composition of the County Board of Equalization of Clallam County and the residence of the constituent members thereof as alleged in said paragraph, and deny all the other allegations thereof.

XIX

With reference to paragraph XIX, these defendants deny the allegations thereof.

XX

With reference to paragraph XX, these defendants deny the allegations thereof.

XXI

With reference to paragraph XXI, these defendants admit the valuation of the timber upon the lands of the plaintiff for the year 1913 as therein set forth, and deny all the other allegations thereof.

XXII

With reference to paragraph XXII, these defendants deny the allegations thereof.

XXIII

With reference to paragraph XXIII, these defendants deny the allegations thereof.

XXIV

With reference to paragraph XXIV, these defendants admit the provisions of section 9112 of Remington & Ballinger's Code therein referred to, but allege that the Act of Legislature, of which said Section is a part was not the laws of the State of Washington at the time the assessment referred to in this action was made by the proper officers of said Clallam County; admit the assessment of taxes for the year 1913 at the amount therein set forth; and the knowledge imputed to the officers therein referred to; and deny all the other allegations thereof.

XXV

With reference to paragraph XXV, these defendants deny all the allegations thereof, and allege that the assessment of said lands and the valuations put thereon were and are the results of the honest and mature deliberation of the assessing officers of said county, formed upon full information, and after careful inquiry and investigation.

XXVI

With reference to paragraph XXVI, these defendants admit the appearance of the plaintiff before the County Board of Equalization as therein stated, and deny all the other allegations thereof.

XXVII

With reference to paragraph XXVII, these defendants admit the appearance of the plaintiff before the County Board of Equalization as therein stated, and deny all the other allegations thereof.

XXVIII

With reference to paragraph XXVIII, these defendants admit the extension of the taxes and the delivery of the tax rolls to the Treasurer of Clallam County, and that the amount of taxes demanded by Clifford L. Babcock as Treasurer of said Clallam County is in the sum therein stated; and deny all the other allegations thereof.

XXIX

With reference to paragraph XXIX, these defendants admit the tender of the amount therein stated,

and that the said Clifford L. Babcock, as Treasurer of said Clallam County, has refused to accept said tender as payment in full of the taxes upon the lands of the plaintiff for the year 1913, and admit the payment by the plaintiff of the taxes assessed against the lands of the plaintiffs for all years prior to 1913; and deny all the other allegations.

XXX

With reference to paragraph XXX, these defendants deny the allegations thereof.

XXXI

With reference to paragraph XXXI, these defendants admit the jurisdiction of this Court, but deny all of the other allegations thereof.

Wherefore, having fully answered the Amended Bill of Complaint herein, defendants pray to be hence dismissed, with their reasonable costs and charges in this behalf most wrongfully sustained, and for such other and further relief as to the Court shall seem meet, just and equitable.

Clallam County.

Clifford L. Babcock, as Treasurer of said Clallam County.

By Edwin C. Ewing, Their Attorney.

J. E. Cochran.

J. E. Frost.

Charles F. Riddell.

Edwin C. Ewing.

Attorneys for Defendants.

Office and Postoffice Address: 627 Colman Building, Seattle, Washington.

Indorsed: Defendants' Answer to Amended Bill of Complaint. Filed November 20, 1914.

No. 36

PLAINTIFF'S MOTION TO STRIKE PORTIONS
OF DEFENDANTS' ANSWER AND TO
MAKE MORE DEFINITE AND
CERTAIN

Comes now the plaintiff and moves against the defendants' answer to the Amended Bill of Complaint as follows:

I

Referring to paragraph VI plaintiff moves the court to strike the same, because it is indefinite and is not a specific answer to the allegations of the bill referred to in said paragraph VI, and particularly the last eight lines thereof are objectionable, as being an attempted allegation of new matter by the defendants and none of said paragraph is specific denial or admission of the specific allegations of paragraph VI of the bill of complaint, to which it is addressed.

II

Referring to paragraphs VII, VIII, IX, X, XI, XII and XIV of the defendants' answer, plaintiff moves to strike the same and to require the defendants to answer explicitly, to either affirm or deny the specific charges made in the allegations of the plaintiff's bill to which the sections of defendants' answer above referred to, are addressed; and particularly to strike from paragraph XIV the last four lines thereof, for the reason that same is affirmative matter, improperly injected into the answer.

III

Referring to paragraph XVI, plaintiff moves the court that same be made specific, as to admissions or denials of the specific allegations of paragraph XVI of the plaintiff's bill.

IV

Referring to paragraphs XXI, XXII, and XXIV, this plaintiff moves to strike the same, and to require the defendants to answer more specifically the allegations of the bill.

V

Referring to paragraph XXV of said answer plaintiff moves to strike the same and to require the defendants to answer specifically the charges of the defendants' bill by either admitting or denying the same, and particularly to strike the last five lines of

said paragraph on the ground that same is an improper allegation of affirmative matter not plead by plaintiff.

EARLE & STEINERT.

PETERS & POWELL.

Attorneys for Plaintiff.

Indorsed: Motion to Strike. Filed November 30, 1914.

No. 36

ORDER ALLOWING PLAINTIFF'S MOTION TO
MAKE MORE DEFINITE AND CERTAIN

This matter having come on to be heard in the above entitled court upon the motion of the plaintiff to strike certain paragraphs of the defendants' answer, and to require the same to be made more definite and certain, plaintiff being present in court by its counsel Messrs. Peters & Powell, and the defendants being present in court by Mr. Edwin C. Ewing, their counsel.

The motion of plaintiff was allowed, and defendants allowed ten days to answer.

Done in open Court this 21st day of December, 1914.

JEREMIAH NETERER, Judge.

Indorsed: Order Allowing Plaintiff's Motion to Make More Definite and Certain. Filed Dec. 21, 1914.

No. 36

AMENDED ANSWER TO AMENDED BILL OF
COMPLAINT.

To the Honorable Judges of the above entitled Court:—

Come now Clallam County, a municipal corporation of the State of Washington, and Clifford L. Babcock, Treasurer of said Clallam County, the defendants named in the above entitled action, and by leave of court first had and obtained file this their amended answer to the amended bill of complaint of the plaintiff herein:—

I

With reference to paragraph I of said amended bill, the defendants allege that they are without knowl-

edge or information sufficient to form a belief as to the truth of the allegations therein contained, but they are willing to admit the same and not put the plaintiff to proof thereof.

II

With reference to paragraph II of said amended bill, the defendants admit the allegations thereof.

III

With reference to paragraph III of said amended bill, the defendants admit that the defendant, Clifford L. Babcock, now is, and ever since the 9th day of January, 1911, has been, the duly elected, qualified and acting Treasurer of Clallam County, Washington, and a resident and inhabitant of said Clallam County.

IV

With reference to paragraph IV of said amended bill, the defendants admit the allegations thereof.

V

With reference to paragraph V of said amended bill, the defendants admit the allegations thereof.

VI

With reference to paragraph VI of said amended bill, the defendants admit that for the purpose of assessment for taxation, and as a basis therefor, the assessing officers of Clallam County have from time to time within the period of five or six years last past caused timber lands in said county to be cruised and the cruises and estimates thus made to be adopted by the county; that most of the timber lands in the county owned by private parties as distinguished from Government lands have now been cruised, and that all the lands owned by the plaintiffs have been so cruised, and that so far as respects timber lands within the county upon which cruises have thus been made, it is claimed by the assessing officers that the same have been assessed upon the basis of the cruises thus obtained; admit that the assessments made by the assessing officers of the county have been made according to certain zones or districts which the assessing officers have laid off; but deny that said zones or districts have been laid off and determined arbitrarily, un-

reasonably or unlawfully, or without reference to and in disregard of the true and fair value in money of timber on the lands within such zones or districts, or in any other manner than fairly, truly, impartially, and as the result of the honest and mature deliberation and judgment of the assessing officers of said county, formed upon full information after careful inquiry and investigation.

VII

With reference to paragraph VII of said amended bill, the defendants deny that the zone therein referred to was arbitrarily laid off; admit the geographical location of said zone, but deny its dimensions and area as alleged in said paragraph; deny that within this zone are included those timber lands which, of all timber lands within the county, are of the greatest value; admit that within this zone the timber is valued for the year 1913 by the assessing officers of Clallam County at the figures set forth in said paragraph; admit that in this and all other zones, in addition to the value placed by the assessing officers on the timber, there was for the year 1913 placed upon the lands themselves a valuation of \$1 per acre; deny that the same, in the case of the plaintiff's lands or the lands of any other persons, was done arbitrarily, unreasonably and unlawfully and without any reference to the actual value thereof, or in any other manner than fairly, truly, impartially and according to law; and deny that many or any of the lands of the plaintiff are of no value whatsoever independent of the timber standing or being thereon.

VIII

With reference to paragraph VIII of said amended bill, the defendants deny that the zone therein referred to was arbitrarily, unreasonably and unlawfully set off by the assessing officers; admit that it lies in the Western part of Clallam County; deny that no part thereof lies nearer to the Straits than approximately four to six miles and that no lands within this zone owned by the plaintiff lie nearer to the Straits than approximately nine miles and that the great body of the lands owned

by the plaintiff within this zone lie much more distant therefrom; admit the form and extent of said zone as alleged in said paragraph; deny that there are no harbors upon the Pacific Ocean within the counties of Clallam or Jefferson at or through which the timber on the lands of the plaintiff might or could be brought to market; admit that within this zone there is a large acreage of land and that upon the timber lands within this zone the assessing officers of Clallam County put for the year 1913, for the purposes of taxation, the valuations therein set forth; admit that the plaintiff is the owner of lands and timber to the extent and in the amounts of the figures therein set forth, and that the value of the lands of the plaintiff within this zone, as fixed and determined by the assessing officers of Clallam County for the year 1913, for the purposes of taxation is as stated therein; deny that all the lands owned by the plaintiff within this zone or the other zones or districts set off by said assessing officers are separated from the Straits of Fuca by a range of mountains.

IX

With reference to paragraph IX of said amended bill, the defendants deny that the zone therein referred to was arbitrarily, unreasonably and unlawfully set off by the assessing officers; admit the location and extent of the zone as therein set forth; admit that upon the timber lands within this zone or district the assessing officers of Clallam County put, for the year 1913, for the purposes of taxation, the valuations therein set forth; admit that the plaintiff is the owner of lands and timber to the extent and in the quantities therein set forth, and that the value of the lands of the plaintiff as fixed and determined by the assessing officers of Clallam County for the year 1913 for the purposes of taxation is as stated therein; deny that none of the lands of the plaintiff within this zone lie nearer to the Straits than six miles, and deny that between these lands and the Straits there is a high and practically impassible mountain range as therein stated.

X

With reference to paragraph X of said amended bill, the defendants deny that the zone therein referred to was arbitrarily, unreasonably and unlawfully set off by the assessing officers; admit the location and extent of the zone as therein set forth; admit that upon the timber lands within this zone or district the assessing officers of Clallam County put, for the year 1913, for the purposes of taxation, the valuations therein set forth; admit that the plaintiff is the owner of lands and timber to the extent and in the quantities therein set forth, and that the value of the lands of the plaintiff as fixed and determined by the assessing officers of Clallam County for the year 1913 for the purposes of taxation is as stated therein; deny that none of the lands of the plaintiff within this zone lie nearer to the Straits than eight miles, and that some of the lands owned by the plaintiff in this zone are twenty-one miles distant therefrom, and admit the extent of the lands owned by the plaintiff as therein stated.

XI

With reference to paragraph XI of said amended bill, the defendants deny that the zone therein referred to was arbitrarily, unreasonably and unlawfully set off by the assessing officers; admit the geographical location of said zone; deny that a range of mountains separates the Sol Duc valley and the lands of the plaintiff from the Straits; deny that this zone is composed of rough and mountainous lands and that there is comparatively a considerable quantity of burnt timber within the same; admit that upon the timber lands within this zone or district the assessing officers of Clallam County put, for the year 1913, for the purposes of taxation, the valuations therein set forth; admit that the plaintiff is the owner of lands and timber to the extent and in the quantities therein set forth, and that the value of the lands of the plaintiff as fixed and determined by the assessing officers is as stated therein; deny that none of the lands of the plaintiff within this zone lie nearer to the Straits than eight miles.

XII

With reference to paragraph XII of said amended bill, the defendants deny that the zone therein referred to was arbitrarily, unreasonably or unlawfully set off by the assessing officers; admit the geographical location and extent of the zone therein referred to, and that said zone contains only a small acreage of land owned by private parties, bordering upon the unsurveyed Government lands situate in the forest reserve; admit that upon the timber lands within this zone or district the assessing officers of Clallam County put, for the year 1913, for the purposes of taxation, the valuations therein set forth; admit that the plaintiff is the owner of lands and timber to the extent and in the quantities therein set forth, and that the value of the lands of the plaintiff as fixed and determined by the assessing officers is as stated therein; deny that none of the lands of the plaintiff within this zone lie nearer to the Straits than nine miles.

XII-A

With reference to paragraph XII-A of said amended bill, the defendants admit the assessment of poles and ties upon the basis therein set forth.

XIII

With reference to paragraph XIII of said amended bill, the defendants deny the practice by assessors and taxing boards of the custom therein referred to, and deny the pursuit of such custom by county assessors and its recognition and acquiescence by the State Board of Equalization; deny that the assessor of Clallam County gives out and pretends that for the year 1913 he assessed taxable property within Clallam County upon the basis of fifty-three per cent of its true and fair value in money, or upon any other or different basis than that provided by the laws of the State of Washington at the time the assessments for the years 1912 and 1913 were made; deny that the members of the County Board of Equalization give out and pretend that they equalized and approved the assessments upon the taxable property within said county upon the basis alleged in said paragraph, or upon any other or

different basis than that provided by the laws of the State of Washington at the time the assessments for the years 1912 and 1913 were made; admit that the interior timber lands in said county, including the lands owned by the plaintiff were and are valued in the year 1913 for the purpose of taxation at sums in excess of fifty-three per cent of the true and fair value therein in money; deny that other properties in said county, real and personal, were valued at sums less than fifty-three per cent of the true and fair value thereof in money; deny that the plaintiff was discriminated against grossly and intentionally or at all, by the assessing officers of Clallam County in the matter of assessment and taxation of its lands for the year 1913.

XIV

With reference to paragraph XIV of said amended bill, the defendants admit that the timber upon the lands of the plaintiff, as shown by the cruise made by the County of Clallam, amount in the aggregate to the figures set forth therein, and that the assessments upon said lands for the year 1913 were made upon the basis of said cruise; deny that the timber upon the lands of the plaintiff was over-valued greatly or at all by the assessing officers of said county in the valuations put thereon by them for the purposes of taxation in the year 1913; admit that the valuations placed by the assessing officers of said county upon the lands of the plaintiff for the purpose of taxation for the year 1913 amount to the figures therein set forth; deny that the true and fair value in money of said lands does not exceed the sum of \$2,050,000, and did not exceed that sum in the year 1913; deny that said assessment for the year 1913 was made upon the basis of 83½ per cent, or upon any other or different basis than the true and fair value in money of all the property assessed; deny that no property in said Clallam County, save the timber lands owned by the plaintiff and certain other timber lands similarly situated was assessed in said year 1913 at so great a proportion of its true and fair value in money; deny that the assessment upon the

lands of the plaintiff, or upon any other lands or other property in said county, was in pursuance of any combination and conspiracy between the assessor of Clallam County and the other members of the County Board of Equalization of said county as alleged in said paragraph or at all.

XV

With reference to paragraph XV of said amended bill, the defendants admit the allegations thereof.

XVI

With reference to paragraph XVI of said amended bill, the defendants admit the election of the assessing officers of Clallam County as alleged in said paragraph; deny that the assessing officers of said county have combined and concerted together, wrongfully and corruptly, with the intents and purposes alleged, or for any other intent and purpose, or at all; admit that it has been the custom of the assessor of said county to consult and advise with the other members of the County Board of Equalization of said county, and with residents of the Middle and West and East Districts of said county in making his assessment rolls, and that such custom was followed in making his assessment rolls for the years 1912 and 1913, but deny that such custom is or was in pursuance of a combination and conspiracy as alleged in said paragraph or at all; deny that the assessment roll does not and did not in the years stated represent the judgment of the assessor and deny that said roll was and is the result of any combination and conspiracy with the other members of the County Board of Equalization; deny that the assessment roll is approved as a matter of course as relates to assessments on timber lands or otherwise by the County Board of Equalization; deny that no fair hearing is possible to be had on appeal to said Board; deny that the custom alleged in said paragraph or any similar or unlawful custom has been followed in said county for several years continuously past, or at all; and deny that the plaintiff was refused a hearing upon appeal to said Board in 1910, as alleged in said paragraph, or at all, or that the conversation between at-

torney for the plaintiff and the members of said Board took place at said time or at all.

XVII

With reference to paragraph XVII of said amended bill, the defendants deny that at the times therein stated or at any other times, for the reasons or with the intent and purposes therein alleged, or for any other purpose whatsoever, were gross or any discriminations practiced by the assessing officers of said Clallam County against the plaintiff or any other persons, or in favor of any other persons, as alleged in said paragraph, or at all.

XVIII

With reference to paragraph XVIII of said amended bill, the defendants allege that they are without knowledge or information as the examination of the assessment rolls of said county by the plaintiff, and the result thereof, and they therefore deny the allegations of said paragraph with regard thereto; deny that the lands and other properties situated at Port Angeles and subject to taxation are valued upon said assessment rolls as equalized for such years at not to exceed 10 to 20 per cent of their true and fair value in money; admit the composition of the County Board of Equalization of Clallam County and the residence of the constituent members thereof as therein alleged, and that the major portion of the population of said county is at Port Angeles; deny that for the purposes therein alleged, or for any other purpose, did the three members of said Board resident at Port Angeles, combine and conspire with the Commissioner from the East District, or any other person, against the plaintiff and other owners of timber lands in the interior of said county, as therein alleged, or against any other persons, or at all.

XIX

With reference to paragraph XIX of said amended bill, the defendants allege that they are without knowledge or information as to the examination by the plaintiff of the assessment rolls of Clallam County for the years 1912 and 1913 and of property values within

said county, and the results thereof, and they therefore deny the allegations of said paragraph with regard thereto; and deny that the farming lands and other properties situate in the East end and subject to taxation are valued upon said tax rolls as equalized for such years at not to exceed 25% to 30% of their true and fair value in money.

XX

With reference to paragraph XX of said amended bill, the defendants allege that they are without knowledge or information as to the examination by the plaintiff of the assessment rolls of Clallam County for the years 1912 and 1913 and of property values within said county, and the results thereof, and they therefore deny the allegations of said paragraph with regard thereto; and deny that the personal property within said county described in said paragraph was valued by the assessing officers of said county for the year 1913 at not to exceed 10% to 15% of their true and fair value in money.

XXI

With reference to paragraph XXI of said amended bill, the defendants admit the location of the lands of the plaintiff as therein stated; deny that said lands are wholly destitute of facilities for transportation, and that it is impossible to bring the timber therefrom into market or that it is necessary that facilities be provided for transportation to Gray's Harbor on the South or the Straits of Fuca on the North; admit that Gray's Harbor is far distant and that no railroad extends further North from that direction than Moclips, and that Moclips is sixty miles from the plaintiff's lands; deny that the lands of the plaintiff are as distant from the Straits of Fuca as therein stated or that said lands are cut off from the Straits by a range of mountains or that it is impossible to bring the timber from said lands except by transportation across such range of mountains; deny that such transportation is impossible of accomplishment except by the construction of a railroad at great expense, or that such expense is beyond the present means at the command of

the plaintiff or which is prohibitive under the present condition of the lumber market or conditions which have at any time heretofore prevailed, or that the facts alleged in said paragraph have a direct and important bearing upon the present value of the lands of the plaintiff; admit that upon the Straits of Fuca and immediately adjoining tide water, there lie fine bodies of fir, spruce, cedar and hemlock timber, which can readily be logged to the Straits as stated, and that extensive logging operations now are and for many years have been carried on in that portion of said Clallam County; admit that this Straits timber (so called) is in the zone or district described in paragraph VII of said amended bill, but deny that said zone was arbitrarily, unreasonably and unlawfully laid off by the assessing officers of said county; admit that in the zones described in said paragraphs VII and XXI the valuations put upon the timber are as stated in said paragraph XXI; and deny that the true and fair value in money of the so called Straits timber is at least twice the true and fair value in money of the timber on plaintiff's lands.

XXII

With reference to paragraph XXII of said amended bill, the defendants admit the geographical location of Port Angeles as therein stated, and the desires and ambitions of the inhabitants thereof; deny the statements therein imputed to inhabitants of Port Angeles and the assessor; deny the combination and conspiracy therein alleged or any combination and conspiracy; deny the purpose therein imputed to the assessing officers of said county, and the assurances of influential citizens of Port Angeles therein set forth; deny the ownership of real property in Port Angeles by the majority of the members of the Board of Equalization, and the personal interest and desire for aggrandizement of the members of said Board for the purposes therein imputed or for any other purpose incompatible with their official positions and duties.

XXIII

With reference to paragraph XXIII of said

amended bill, the defendants deny that the assessments therein complained of are unequal, discriminating or unlawful, or that they are the result, direct and immediate or otherwise of any intent, either corrupt or unlawful or in any wise incompatible with the official positions and duties of said officers, of the County Assessor and the members of the County Board of Equalization of said Clallam County, to discriminate against the plaintiff or any other persons, or in favor of any persons, either as stated in said paragraph or otherwise, or to undervalue or over value the taxable properties in said county for the purposes therein alleged or for any other purposes whatsoever.

XXIV

With reference to paragraph XXIV of said amended bill, the defendants admit the provisions of §9112 of Volume 3 of Remington & Ballinger's Annotated Codes and Statutes of Washington therein referred to; deny that the true and fair value in money of the lands of the plaintiff therein referred to do not exceed, and did not exceed when the assessments for 1912 and 1913 were made, the sum therein stated; deny that under said statute any assessment of lands of the plaintiff for purposes of taxation at a sum greater than the sum of \$1,025,000 is unjust, illegal and void; admit that the true and fair value in money of the lands owned by the plaintiff is known to the assessor of Clallam County and to the members of the said County Board of Equalization, and was so known at the time of the making of said assessment and the approval thereof by said Board; deny that said officers in making and equalizing such assessment disregarded the duty placed upon them by law, and deny that said officers fraudulently and unlawfully caused said lands to be assessed at a sum exceeding by \$686,505 50% of the true and fair value in money of said lands; deny that the assessment of said lands was made and approved by said officers with a fraudulently or corrupt intent, or with any other intent incompatible with their official position and duties, either as stated in said paragraph or otherwise; admit that the taxes levied for the year 1913 upon the

lands of the plaintiff aggregate the sum therein stated, but deny that had said taxes been levied upon the true and fair value in money of said lands, the same would not have exceeded the sum of \$30,000; deny that the practices of the assessing officers of said county in the matter of the assessment of the lands of the plaintiff for the year 1913, or any other year, were fraudulent or unlawful, or in any wise incompatible with the duties of said officers, or that there are or were imposed upon the lands of the plaintiff for said year \$20,049.59 in excess of all taxes which might or could equitably or lawfully be imposed thereon.

XXV

With reference to paragraph XXV of said amended bill, the defendants deny either an over valuation of the lands therein referred to, or the undervaluation of other property in said county and the pursuit and practice of the policy therein imputed to the assessing officers of said county, or any other policy incompatible with their official duties, for several years last past, or at all; deny that the assessment of the lands of the plaintiff and other owners of timber lands in the interior of said county are proportionately higher than the assessments imposed upon other real and personal properties in said county, or that said assessments are or result in an actual or any fraud upon the plaintiff; deny that any plan resulting in fraud upon the plaintiff or any other person is or was arbitrarily and systematically or otherwise adopted and carried out by the officers therein referred to or by the defendants herein.

XXVI

With reference to paragraph XXVI of said amended bill, the defendants deny that the assessments upon the lands of the plaintiff were made by the assessor of said county for the year 1912 at a high, excessive, unlawful and illegal rate as specified in said amended bill, and upon the unlawful and fraudulent basis therein mentioned; admit that thereafter the County Board of Equalization met to consider and review the assessment roll; deny that such review was ostensible, specious and fraudulent in character; deny

that the members of said Board had combined and conspired with the assessor as therein stated, or at all; admit the appearance and protest of the plaintiff before said Board at its regular sitting in 1912 as therein stated; admit that the protests of the plaintiff were overruled by the Board, but deny that the same were arbitrarily disregarded or that the petition of the plaintiff to equalize its assessment was arbitrarily denied.

XXVII

With reference to paragraph XXVII of said amended bill, the defendants deny that the assessments upon the lands of the plaintiff were made by the assessor of said county for the year 1913 at a high, excessive, unlawful and illegal rate as specified in said amended bill, and upon the unlawful and fraudulent basis therein mentioned; admit that thereafter the County Board of Equalization met to consider and review the assessment roll; deny that such review was ostensible, specious and fraudulent in character; deny that the members of said Board of Equalization had combined and conspired with the assessor as therein stated, or at all; admit the appearance and protest of the plaintiff before said Board at its regular sitting in 1913 as therein stated; admit that the protests of the plaintiff were overruled by the Board, but deny that the same was arbitrarily disregarded or that the petition of the plaintiff to equalize its assessment was arbitrarily denied.

XXVIII

With reference to paragraph XXVIII of said amended bill, the defendants admit the extension of the taxes and the delivery of the tax rolls to the Treasurer of Clallam County, but deny that the basis of such extension and such assessment was high, excessive, unlawful and fraudulent as alleged therein; admit that said Treasurer has demanded payment of such taxes as shown by said rolls, but deny that said taxes are illegal, fraudulent or arbitrary; admit that the taxes so demanded by said Treasurer amount in the aggregate to said sum of \$50,049.99, and that said

Treasurer, unless restrained by order of this Court, will sell the property of the plaintiff to satisfy such taxes.

XXVIII-A

With reference to paragraph XXVIII-A of said amended bill, the defendants admit the allegations thereof.

XXVIII-B

With reference to paragraph XXVIII-B of said amended bill, the defendants admit the duties of the Treasurer of Clallam County with reference to the disposition of taxes collected as stated therein; deny that if the plaintiff instituted suit to recover back taxes paid as alleged in said paragraph, it would be obliged to bring suit against each one of the taxing bodies therein mentioned, and deny that thereby there would be necessitated a multiplicity of suits, and deny that the proportion of the tax going to the State of Washington could not be collected back, or that repayment from the town of Port Angeles would not cover costs and other items referred to therein, or that plaintiff would thereby be subjected to great and irreparable injury or that plaintiff would not have a complete, adequate or any remedy at law; admit the duties of the Treasurer of Clallam County with reference to the issuance of certificates of delinquency as therein alleged; and deny that the levy and existence of the tax therein referred to constitute a cloud upon the title to the plaintiff's lands or any of them.

XXIX

With reference to paragraph XXIX of said amended bill, the defendants admit the tender of the amount therein stated, and that the said Clifford L. Babcock, as Treasurer of said Clallam County, has refused to accept said tender as payment in full of the taxes upon the lands of the plaintiff for the year 1913; deny that the sum thus tendered is more than the taxes justly and equitably due from the plaintiff as therein alleged; deny that the plaintiffs property was assessed upon any different basis than all the other property within said county or that said assessments were other

than legal and equitable, equal to and uniform with the assessments upon all other property within said county; admit that the taxes upon the lands of the plaintiff for all years prior to 1913 have been paid and discharged; and deny that the taxes for the year 1913 have been paid and discharged by the tender and payment as specified in said paragraph.

XXX

With reference to paragraph XXX of said amended bill, the defendants deny that the assessment of the lands of the plaintiff for the year 1913 is arbitrary, unjust, illegal or fraudulent as compared with the assessment of all other property in said Clallam County, or otherwise, or that said assessment as made by the assessing officers of said county is prohibited by the Constitution of the State of Washington or is in violation of §1 and §2, Article VII thereof as therein alleged, or that the taxes upon the lands of the plaintiff are not equal and uniform as compared with all other property in said county.

XXXI

With reference to paragraph XXXI of said amended bill, the defendants deny that if the assessment and levy of taxes upon the plaintiff's lands for the year 1913 be not vacated, set aside and held for naught, the same will result in the taking of the property of the plaintiff without due process of law or in denying to the plaintiff the equal protection of the laws, or that the same would be a violation of the Fourteenth Amendment to the Constitution of the United States; but admit the jurisdiction of this Honorable Court.

XXXI-A

With reference to paragraph XXXI-A of said amended bill, the defendants deny that the plaintiff is remediless at common law or that he is relievable only in a court of equity as therein alleged.

FIRST AFFIRMATIVE DEFENSE.

And for a first further and affirmative defense to the cause of action set forth in the plaintiff's amended bill of complaint herein, the defendants allege:

I

That the true and fair value in money of timber and timbered lands is dependent, among other factors, upon the character and quality or grade of timber, the thickness of the stand of timber or quantity per acre or upon a given tract, the topography of the ground upon which the timber stands, the presence of water for use in camps, logging engines and locomotives, the probability of fires, the size and contiguity of the tracts of land, large tracts or contiguous tracts constituting practically solid bodies of land containing sufficiently large quantities of timber to constitute profitable logging enterprises being commercially more valuable per acre or per M feet of timber than smaller or isolated tracts not sufficient in size to warrant the construction of roads, railroads, camps and other facilities necessary to the removal of the timber.

The lands of the plaintiff, referred to in its amended bill of complaint herein, consist of large and practically solid bodies, bearing timber of valuable character, of exceptionally high grade and quality and of thick and heavy stand, and constitute desirable advantageous and profitable logging enterprises from an operating standpoint, making the same proportionately more valuable than smaller or isolated tracts of timbered lands in the same localities, or otherwise similar in character to the lands of the plaintiff.

II

That on or about the year 1908, the assessing officers of Clallam County caused to be employed experienced, capable and competent timber cruisers to make, and who did make, full, complete and detailed cruises and estimates of the character, quality and quantity of the timber standing upon the various legal sub divisions of land in said county. All of the timbered lands in said county in private ownership, including the lands of the plaintiff, have now been so cruised and platted into tracts or zones, and detailed reports and estimates of such cruises made and filed in the office of the County Assessor of said county respecting the same. These reports, estimates and

plats, taking into due consideration the factors of value hereinabove set forth, and also the availability, ease or difficulty of logging, and physical characteristics of the lands, together with such other information with reference to agricultural possibilities of the lands, the presence of mineral deposits and other similar factors of value as the assessing officers were able to obtain upon independent investigation, were, and have been consulted and used by such officers to assist in ascertaining and determining the values of said lands for the purposes of assessment and taxation, and such facts, plats, estimates, reports, data and other information, with due attention to geographical location, availability, physical characteristics of the ground, and other elements influencing the values of timber and timbered lands, as hereinabove set forth, were carefully considered by such officers in making the assessments referred to in the plaintiff's amended bill of complaint herein.

The assessments thus made, and as hereinafter referred to, were not arbitrary, capricious, unlawful, unreasonable, inequitable, disproportionate, or the result of any combination or conspiracy whatsoever, as alleged in the plaintiff's amended bill of complaint herein, or at all, but were the results of the honest, sincere, conscientious, mature and deliberate judgment and belief of the assessing and equalizing officers of said county formed upon and after full and careful investigation of all the facts and circumstances surrounding said lands and affecting their values, as hereinabove set forth, and a full free and fair hearing as required by law.

That by the laws of the State of Washington in force and effect at the time the assessments for the years 1912 and 1913 complained of in plaintiff's said amended bill of complaint were made, and prior thereto, as hereinafter set forth, it was and is provided:

(Laws of 1897, Chapter LXXI.)

§1. That all real and personal property now existing, or that shall be hereafter created or brought into this state shall be subject to assessment and taxa-

tion upon equalized valuations thereof, fixed with reference thereto on the first day of March at twelve o'clock meridian, in each and every year in which the same shall be listed, and

§2. That real property for the purposes of taxation, shall be construed to be the land itself, and all buildings, structures and improvements, or other fixtures of whatsoever kind thereon, and all rights and privileges thereto belonging or in any wise appertaining, and all quarries and fossils in and under the same, which the law defines, or the courts may interpret, declare and hold to be real property, for the purposes of taxation, and

§6. That all real property in this state subject to taxation shall be listed and assessed under the provisions of this act in the year 1900 and biennially thereafter on every even numbered year with reference to its value on the first day of March preceding the assessment, and that all real estate subject to taxation shall be listed by the assessor each year in the detailed and assessment list and in each odd numbered year the valuation of each tract for taxation shall be the same as the valuation thereof as equalized by the county board of equalization in the preceding year, and

§42. That all property shall be assessed at its true and fair value in money; that the assessor shall value each article or description of property by itself, and at such sum or price as he believes the same to be fairly worth in money at the time such assessment is made; that in assessing any tract or lot of real property, the value of the land, exclusive of improvements shall be determined; in valuing any property on which there is a coal or other mine, or stone or other quarry, the same shall be valued at such price as such property, including the mine or quarry, would sell at a fair voluntary sale for cash.

IV

That the assessment for the year 1913, complained of in the plaintiff's amended bill of complaint, was the assessed and equalized value of the plaintiff's lands for the year 1912, upon which the plaintiff paid all taxes

levied and assessed without protest; that the assessments of the lands of the plaintiff, described in its said amended bill of complaint, based upon the cruises of timbered lands in said county, as herein set forth, began and were made in the year 1910, and were used and consulted and adopted in 1911 and 1912, and have continued ever since; that the plaintiff, as alleged in its said amended bill of complaint herein, paid without protest, all of the taxes levied upon its said lands for the years 1910, 1911 and 1912.

V

That the methods and bases upon which, and the laws of the State of Washington under which, the assessments of timbered lands in Clallam County, including the lands of the plaintiff, have been made since the year 1910, have at all times since that date, been known to and acquiesced in by the plaintiff.

VI

That under the laws of the State of Washington, all taxes for State, County, Municipal and other purposes, are levied in specific sums and charged directly to the respective counties of said State; the rate per centum necessary to raise the taxes so levied in dollars and cents is computed and ascertained by the County Assessor of each county; that after taxes are thus levied, neither the county nor the property therein can be relieved of the duty of the payment of such taxes; that deficiencies owing to a reduction in the amount of taxes to be paid by any property owner or tax payer, or to a failure to collect taxes for any reason, are by the laws of said State, required to be added to, made up and collected under future assessments and levies, all of which is known to the plaintiff.

That the lands of the plaintiff, as admitted by the allegations of its amended bill of complaint herein, are not assessed or taxed at any greater or higher value or rate than other timbered lands in said county of similar character or similarly situated to the lands of the plaintiff, and upon which the taxes and assessments have been paid by the owners thereof.

That under the laws of the State of Washington,

county boards and officials are prohibited and are without authority to remit or grant refunds of taxes paid, all of which is known to the plaintiff herein; that plaintiff neglected and delayed to take proper or any steps or to bring any suit or other proceeding to correct the alleged inequitable assessments referred to in its said amended bill of complaint herein, until after the larger portion of the taxes levied upon other lands similar in character and similarly located to the lands of the plaintiff had been paid, and if relief as prayed for in the plaintiff's said amended bill of complaint is granted, other owners of property similar in character and similarly situated to the lands of the plaintiff in said county, will have been for the year 1913, and in the future will be, compelled to pay an unjust and unfair proportion of the taxes levied upon property in said county.

VII

That by reason of the premises, and the facts and circumstances hereinabove recited, the plaintiff has been and is guilty of laches, and is precluded and estopped to question or deny the legality, fairness or correctness of the assessment and levy of taxes upon its said lands for the year 1913, and it cannot, in equity or good conscience, now be heard to complain thereof.

SECOND AFFIRMATIVE DEFENSE.

And for a second and further affirmative defense to the cause of action set forth in the plaintiff's amended bill of complaint herein, the defendants allege:

I

That they hereby refer to paragraphs I, II, III and IV of their first and further affirmative defense hereinabove set forth, and by such reference adopt the same and make them a part of this second affirmative defense.

II

That Section 9112 of Volume 3 of Remington & Bailegger's Annotated Codes and Statutes of Washington was not, and did not become, the law of the State of Washington, until on and after the 12th day of June,

1913, subsequent to the time when the assessment of the lands of the plaintiff complained of in said amended bill of complaint was made, and therefore did not govern or apply to the said assessment of the plaintiff's lands.

WHEREFORE, having fully answered the said amended bill of complaint herein, the defendants pray to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained and for such other and further relief as to the Court shall seem meet, just and equitable.

CLALLAM COUNTY,
CLIFFORD L. BABCOCK, as
Treasurer of said County.

Defendants.

By Edwin C. Ewing,
Their Attorney.

J. E. COCHRAN,
J. E. FROST,
C. F. RIDDELL,
EDWIN C. EWING,

Attorneys for Defendants.

Office and Post Office Address:

627 Colman Building,
Seattle, Washington.

Indorsed: Amended Answer to Amended Bill of Complaint. Filed January 18, 1915.

No. 36

STIPULATION AS TO PLEADINGS

IT IS STIPULATED by and between the plaintiff and the defendants herein, at the instance and request of the plaintiff, in order to save unnecessary expense of useless repetition in making up the record for appeal herein, as follows, to wit:

That there was served by the plaintiff upon the defendants and filed herein on the 9th day of December, 1914, an amended Bill of Complaint which was in all respects similar in words and figures to the original complaint, save in the following particulars:

A. In the original complaint, in paragraph X,

page 7, line 16, it is alleged by plaintiff that the timber upon the acreage in the zone therein referred to was, according to the cruise made by the County of Clallam, approximately 1,110,302 $\frac{1}{4}$ M feet of all sorts; whereas in the amended complaint, in paragraph X thereof, on page 7, line 15, this amount is alleged to be 1,112,994 M feet of timber.

B. In paragraph X of the original complaint, page 7, line 21, it is alleged that the timber lands of the plaintiff in the zone therein referred to, were assessed by Clallam County for taxation for the year 1913 in the sum of \$588,350. while in the amended complaint, in paragraph X thereof, page 7, line 19, this assessed valuation is charged as being placed by the county of Clallam at \$581,880.

C. In the original complaint in paragraph XI thereon, page 8, line 11, it was alleged by the plaintiff that the timber upon the zone therein referred to, according to the cruise made by the county of Clallam, amounts in the aggregate to approximately 64,738 $\frac{1}{2}$ M feet of all sorts; whereas in the amended complaint, in paragraph XI, page 8, line 10, the amount of timber upon this zone as shown by the cruise of Clallam County is alleged to be 64,739 $\frac{1}{2}$ M feet.

D. In the original complaint, in paragraph XIV, on page 10, line 17, it is alleged that the timber upon plaintiff's lands, as shown by the cruise of the county of Clallam, amounts in the aggregate to 1,420,241 $\frac{1}{2}$ M feet; whereas in the amended complaint, in paragraph XIV thereof, page 10, line 14, this timber is alleged to amount to the aggregate of 2,551,080 M feet.

E. The amended bill of complaint, at pages 23 and 24, contains additional paragraphs to those contained in the original bill, being designated as paragraphs XXVIII A and XXVIII B, reading as follows:

XXVIII A

"That prior to the assessment and levy of the taxes complained of herein this complainant under instruments of conveyance conveying to it all of the lands hereinabove described, was in the actual possession and

occupation in a portion of said lands for the whole; otherwise said lands are vacant and unoccupied."

XXVIII B

"That it is the duty of the Treasurer of Clallam County under the law of the state, after receiving the moneys so taxed, to pay the sum so received in the proportions designated in his tax books to the various road and bridge funds and to the city of Port Angeles and to the state of Washington, and to the various funds for which said taxes are collected and distributed under the law, and to other officers and authorities entitled to receive the same, and if the plaintiff instituted suit to recover back the taxes so paid to the town of Port Angeles, or county, or road, or school districts it would be obliged to bring suit against each one of the taxing bodies receiving its proportionate share of the tax, thereby necessitating a multiplicity of suits, and the proportion of the tax which would go to the state of Washington could not be collected back by any legal proceeding whatever; and if repayment could be compelled from the town of Port Angeles and other taxing bodies, such repayment would not cover the costs, including commissions deducted for the collection of the tax, and penalties, and complainant would be subject to great and irreparable injury for which there was not a complete, adequate or any remedy at law.

That the Treasurer of Clallam County is required under the law, upon the delinquency of said taxes, to immediately issue delinquent certificates against said lands, under which same are authorized to be sold and would be sold to pay said taxes. The levy and existence of said tax and the threatened issuance of delinquent certificates and sale thereunder constitute a cloud upon the plaintiff's title to said lands and all of them."

F. The amended bill of complaint contains, on page 26 thereof, a further and additional paragraph to those of the original bill, being designated as paragraph XXXI A, which reads as follows:

"That plaintiff is remediless at and by the strict

rules of the common law, and are relievable only in a court of equity, where matters of this sort are properly cognizable and relievable.”

IT IS FURTHER STIPULATED that in preparing the transcript and printing the record, these changes may be pointed out by interlineation, or by any other appropriate and convenient method.

IT IS FURTHER STIPULATED with reference to the pleadings in this cause that after the closing of the evidence and at the time of the argument of this cause, the defendants, over the objection of the plaintiff, under circumstances set forth in the statement of facts herein, were allowed to amend their answer in certain particulars, as defendants contended, to correspond with the evidence in the case, and thereafter, on to-wit the 3d day of Feby., 1916, the defendants served upon the plaintiff and filed herein their second amended answer with reference to which it is here and now stipulated that said second amended answer is the same in all respects as the amended answer filed herein on the 18th day of January, 1915, save only in the following particulars, to wit:

(A) Paragraph XIII was amended to read as follows:

“With reference to paragraph XIII of said amended bill the defendants admit the practice by assessors and taxing boards of the custom therein referred to, and admit the pursuit of such custom by county assessors and its recognition and acquiescence by the State Board of Equalization; deny that the assessor of Clallam County gives out and pretends that for the year 1913 he assessed taxable property within Clallam County upon the basis of fifty-three per cent of its true and fair value in money; deny that the members of the County Board of Equalization give out and pretend that they equalized and approved the assessments upon the taxable property within said county upon the basis alleged in said paragraph; deny that the interior timber lands in said county, including the lands owned by the plaintiff were and are valued in the year 1913 for the purpose of taxation at sums in excess of fifty-

three per cent of the true and fair value thereof in money, that other properties in said county, real and personal, were valued at sums less than fifty-three per cent of the true and fair value thereof in money; deny that the plaintiff was discriminated against grossly and intentionally or at all, by the assessing officers of Clallam County in the matter of assessment and taxation of its lands for the year 1913."

(B) Paragraph XIV was amended to read as follows:

"With reference to paragraph XIV of said amended bill, the defendants admit that the timber upon the lands of the plaintiff, as shown by the cruise made by the County of Clallam, amount in the aggregate to approximately 2,551,000,600 feet, the figures set forth therein, and that the assessments upon said lands for the year 1913 were made upon the basis of said cruise; deny that the timber upon the lands of the plaintiff was overvalued greatly or at all by the assessing officers of said county in the valuations put thereon by them for the purpose of taxation in the year 1913; admit that the valuation placed by the assessing officers of said county upon the lands of the plaintiff for the purpose of taxation for the year 1913 amount to the figures therein set forth, to wit: \$1,711,505; deny that the true and fair value in money of said lands does not exceed the sum of \$2,050,000 and did not exceed that sum in the year 1913; deny that said assessment for the year 1913 was made upon the basis of 83½ per cent, that no property in said Clallam County save the timber lands owned by the plaintiff and certain other timber lands similarly situated, was assessed in said year 1913 at so great a proportion of its true and fair value in money; deny that the assessment upon the lands of the plaintiff, or upon any other lands or other property in said county, was in pursuance of any combination and conspiracy between the assessor of Clallam County and the other members of the County Board of Equalization of said county as alleged in said paragraph or at all."

(C) Paragraph XVI was amended to read as follows:

"With reference to paragraph XVI of said amended bill the defendants admit the election of the assessing officers of Clallam County as alleged in said paragraph; deny that the assessing officers of said county have combined and concerted together, wrongfully and corruptly, with the intents and purposes alleged, or for any other intent and purpose, or at all; deny that it has been the custom of the assessor of said county to consult and advise with the other members of the County Board of Equalization of said county, and with residents of the Middle and West and East Districts of said county in making his assessment rolls, and that such custom was followed in making his assessment rolls for the year 1912 and 1913; deny that such custom is or was in pursuance of a combination and conspiracy as alleged in said paragraph or at all; deny that the assessment roll does not and did not in the years stated represent the judgment of the assessor; deny that said roll was and is the result of any combination and conspiracy with the other members of the County Board of Equalization; deny that the assessment roll is approved as a matter of course as relates to assessments on timber lands or otherwise by the County Board of Equalization; deny that no fair hearing is possible to be had on appeal to said Board; deny that the custom alleged in said paragraph or any other similar or unlawful custom has been followed in said county for several years continuously past, or at all; and deny that the plaintiff was refused a hearing upon appeal to said Board in 1910 as alleged in said paragraph, or at all, or that the conversation between attorney for the plaintiff and the members of said Board took place at said time or at all"

(D) Referring to paragraph XXI: In the original answer the defendants admitted the charge of the plaintiff's bill that "Upon the Straits of Fuca and immediately adjoining tidewater there lie fine bodies of fir, spruce, cedar and hemlock timber which can readily

be logged to the Straits", whereas in their amended answer they deny this allegation of plaintiff's.

(E) Paragraph XXIV was amended to read as follows:

"With reference to paragraph XXIV of said amended bill, the defendants admit the provisions of Sections 9112 of Volume 3 of Remington & Ballinger's Annotated Codes and Statutes of Washington therein referred to; deny that the true and fair value in money of the lands of the plaintiff therein referred to do not exceed, and did not exceed when the assessments for 1912 and 1913 were made, the sum of \$2,050,000.00 therein stated; deny that under said statute any assessment of lands of the plaintiff for purposes of taxation at a sum greater than the sum of \$1,025,000 is unjust, illegal and void; admit that the true and fair value in money of the lands owned by the plaintiff is known to the assessor of Clallam County and to the members of the said County Board of Equalization and was so known at the time of the making of said assessment and the approval thereof by said Board; deny that said officers in making and equalizing such assessment disregarded the duty placed upon them by law, and deny that said officers fraudulently and unlawfully caused said lands to be assessed at a sum exceeding by \$686,505. 50% of the true and fair value in money of said lands; deny that the assessment of said lands was made and approved by said officers with a fraudulent or corrupt intent, or with any other intent incompatible with their official positions and duties, either as stated in said paragraph or otherwise; admit that the taxes levied for the year 1913 upon the lands of the plaintiff aggregate the sum of \$50,049.59 therein stated, but deny that had said taxes been levied upon the true and fair value in money of said lands, the same would not have exceeded the sum of \$30,000; deny that the practice of the assessing officers of said county in the matter of the assessment of the lands of the plaintiff for the year 1913 were fraudulent or unlawful, or in any wise incompatible with the duties of said officers, or that there are or were imposed upon the

lands of the plaintiff for said year \$20,049.59 in excess of all taxes which might or could equitably or lawfully be imposed thereon."

And with this explanation, IT IS STIPULATED that plaintiff's amended bill and Defendants' second amended Answer need not be set out in this transcript on appeal.

EARL & STEINERT,
PETERS & POWELL,
Attorneys for Plaintiffs.
EDWIN C. EWING,
C. F. RIDDELL,

Attorneys for Defendants.

Indorsed: Stipulation. Filed November 6, 1916.